

COPY

In The Matter Of:

*Robert E. Wilkins v.
W.R. Grace & Co.*

*Alan Stringer
February 29, 2000*

*Lincoln County
Cause No. DV 98-135*

*Martin-Lake & Associates, Inc.
The Court Reporters
E-mail: mla@montana.com
111 North Higgins, Suite 500
Missoula, MT 59802
(406) 543-6447 FAX: (406) 543-5023*

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Page 1

[1] MONTANA NINETEENTH JUDICIAL DISTRICT COURT
[2] LINCOLN COUNTY

[3] ROBERT E. WILKINS
[4] Plaintiff,
[5] vs. Cause No. DV-98-135
[6] W.R. GRACE & CO. - CONN.,
[7] Defendant.

[8]
[9]
[10] Taken at 199 West Pine
Missoula, Montana

[11] Tuesday, February 29, 2000 at 9:45 a.m.

[12]
[13]
[14] DEPOSITION
[15] OF
[16] ALAN STRINGER

[17]
[18]
[19] APPEARANCES

[20] TOM L. LEWIS, Esq., of Lewis, Huppert & Slovak, P.C.,
725 3rd Avenue North, P.O. Box 2325, Great Falls, MT 59403,

[21] appearing on behalf of the Plaintiff.

[22] GARY L. GRAHAM, Esq., of Garlington, Lohn &
Robinson, P.L.L.P., 199 West Pine, Missoula, MT 59802

[23] appearing on behalf of the Defendant.

[24] Reported by Stephanie A. Ahrens
Certified Shorthand Reporter

[25]

Page 2

[1] INDEX

[2] WITNESS: PAGE:
[3] ALAN STRINGER
[4] Examination by Mr. Lewis 4
[5]
[6] Stipulations 3
[7]
[8] EXHIBITS: None marked.

[9]
[10] Certificate of Witness 158
[11] Certificate of Court Reporter 159

[12]

[13]

[14]

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Page 3

[1] STIPULATION

[2] It was stipulated by and between counsel for
[3] the respective parties that the deposition be taken by
[4] Stephanie A. Ahrens, CSR, Freelance Court Reporter and
[5] Notary Public for the State of Montana, residing in
[6] Missoula, Montana.

[7]

[8] It was further stipulated and agreed by and
[9] between counsel for the respective parties that the
[10] deposition be taken in accordance with the Montana
[11] Rules of Civil Procedure.

[12]

[13] It was further stipulated and agreed by and
[14] between counsel for the respective parties and the
[15] witness that the reading and signing of the deposition
[16] would be expressly reserved.

[17]

[18]

[19]

[20]

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[23]

[24]

[25]

Page 4

[1] TUESDAY, FEBRUARY 29, 2000

[2] Thereupon,
[3] ALAN STRINGER,
[4] a witness of lawful age, having been first duly
[5] sworn to tell the truth, the whole truth, and
[6] nothing but the truth, testified upon his oath as
[7] follows:

[8] EXAMINATION

[9] BY MR. LEWIS:

[10] Q: State your name for the record, sir.

[11] A: Alan Stringer.

[12] Q: What is your address?

[13] A: 27597 Via, V-I-A, Fortuna, F-O-R-T-U-N-A, San
[14] Juan Capistrano, C-A-P-I-S-T-R-A-N-O, California.

[15] Q: How long have you resided at that address?

[16] A: Five and a half years.

[17] Q: Have you had your deposition taken before?

[18] A: In any venue?

[19] Q: Yes.

[20] A: Yes.

[21] Q: More than once?

[22] A: Possibly; no more than two.

[23] Q: Do you recall the last time you had your
[24] deposition taken?

[25] A: Yes.

Page 5

[1] Q: In what venue was that?
[2] A: It was in Illinois, a company I previously
[3] worked for.
[4] Q: What was the name of the company?
[5] A: Ottawa Silica Company.
[6] Q: When was that deposition taken?
[7] A: Approximately 1981 or '82.
[8] Q: Did you ever give a deposition concerning the
[9] asbestos claims that exist in Libby?
[10] A: I just remembered a second deposition. Yes.
[11] One in Libby, but I don't know what it was relative to.
[12] But it was a lawyer from Georgia came through, and it
[13] would have been in February of about 1992. I don't
[14] remember the why. I just remember him coming in on the
[15] train and wondering why he couldn't get a cab at
[16] 4 o'clock in the morning. But I don't — he was there
[17] and just looking, he went through and put — looking at
[18] files.
[19] Q: Now, did you have counsel there on your
[20] behalf —
[21] A: No.
[22] Q: — or on Grace's behalf?
[23] A: No.
[24] MR. GRAHAM: Doesn't sound like it
[25] was — was it a deposition before a court

Page 6

[1] reporter?
[2] A: Yeah, sure, there was a court reporter from
[3] Libby. There were counsel available on the phone. But
[4] I don't —
[5] Q: (By Mr. Lewis) Was it a document production;
[6] is that what it was?
[7] A: Yeah, it was document productions. Yeah,
[8] that's what it was. That's a good example, yes.
[9] Q: My main concern is that you understand the
[10] deposition process. Have you had an opportunity to
[11] discuss this deposition with Mr. Graham?
[12] A: Yes, I have.
[13] Q: Without getting into the details of what he
[14] told you, did he explain the process to you?
[15] A: Yes.
[16] Q: You understand that you are under oath here
[17] today?
[18] A: Yes, I am.
[19] Q: There's a few rules that will help us get a
[20] good record. First of all, if I ask you a question and
[21] you don't know the answer, you don't have to guess.
[22] Okay?
[23] A: Fair enough.
[24] Q: If I ask you for an estimate, that's one
[25] thing. But if I ask you for an affirmative statement of

Page 7

[1] fact and you don't know the answer, then the truthful
[2] answer is, I don't know, and that's perfectly okay. All
[3] right?
[4] A: All right.
[5] Q: If I ask you a question and the question is
[6] confusing to you or you don't understand the question,
[7] please ask me to rephrase the question or simply state
[8] you don't understand the question. Fair enough?
[9] A: Fair.
[10] Q: I have a bad habit in depositions of
[11] interrupting witnesses, and I'll apologize to you for it
[12] in advance. And I'm sure it will happen once or more
[13] times during this deposition. I don't want to be
[14] impolite or interrupt, but I get going and I think if
[15] you pause, sometimes I'll interrupt.
[16] If you haven't finished your answer, just
[17] raise your hand or say I didn't finish and I'll allow
[18] you to complete your answer, okay?
[19] A: Okay.
[20] Q: If you need a break to talk things over, in
[21] the deposition, with Mr. Graham, that's perfectly
[22] acceptable. Just simply so state.
[23] And then, finally, the court reporter cannot
[24] record nods, and uh-huhs, and yeahs, and stuff like
[25] that. You need to answer questions yes or no, okay?

Page 8

[1] A: I understand.
[2] Q: All right. Now, I'm not going to pry here,
[3] but its important that I get some of your background
[4] information. So I'll just ask you some general
[5] questions to start —
[6] A: All right.
[7] Q: — concerning that. Where were you born, sir?
[8] A: In Missouri.
[9] Q: How old are you?
[10] A: 55, going on 56.
[11] Q: What is your educational background?
[12] A: I have a Bachelor of Science in mining
[13] engineering from the Colorado School of Mines.
[14] Q: When did you achieve that degree?
[15] A: 1973.
[16] Q: In your adult life, what jobs have you held,
[17] just generally?
[18] A: Until 1980 — excuse me, until 1994, they
[19] were — post-graduate were all mining-related. Since
[20] 1994, I have worked as a regional production manager for
[21] Grace Construction Products.
[22] Q: Regional construction manager?
[23] A: Production.
[24] Q: Production manager. For W.R. Grace?
[25] A: For W.R. Grace.

Page 9

Page 11

[1] Q: So you graduated from a mining program in
[2] 1973. Who was your first employer?
[3] A: Alcoa, A-L-C-O-A.
[4] Q: What was your position with them?
[5] A: It was a variety of positions, all in Surinam
[6] S-U-R-I-N-A-M, South America.
[7] Q: How long did you hold —
[8] A: Three years.
[9] Q: You were three years with Alcoa?
[10] A: That's correct.
[11] Q: Did any of that work have to do with asbestos?
[12] A: No, it did not.
[13] Q: And then, after you went to work for Alcoa —
[14] or after you left Alcoa —
[15] A: I went to work for AMAX, A-M-A-X, in Colorado.
[16] MR. GRAHAM: You have to wait until he
[17] finishes his question.
[18] Q: (By Mr. Lewis) How long did you work for that
[19] company?
[20] A: Which company?
[21] Q: AMAX.
[22] A: Three years.
[23] Q: What did you do for that company?
[24] A: I was an open pit foreman.
[25] Q: What kind of mine?

[1] W.R. Grace?
[2] A: Mine superintendent.
[3] Q: Where at?
[4] A: Libby, Montana.
[5] Q: How long did you hold that position?
[6] A: Until July of 1988.
[7] Q: Then what did you do?
[8] A: Became general manager of the same operation.
[9] Q: So, in July of '88, you became manager of the
[10] mine in Libby?
[11] A: That's correct.
[12] Q: How long did you hold that position?
[13] A: Until I left, in May of 1994.
[14] Q: And since then, you have been the regional
[15] production manager for Grace?
[16] A: That's correct.
[17] Q: So since September 7, 1981 you have been
[18] continually employed by W.R. Grace or one of its
[19] subsidiaries; is that correct?
[20] A: That's true.
[21] Q: Are you, technically, employed by a subsidiary
[22] now?
[23] A: No.
[24] Q: So, what is the actual name of your employer
[25] right now?

Page 10

Page 12

[1] A: Molybdenum, M-O-L-Y-B-D-E-N-U-M.
[2] Q: Did that have anything to do with asbestos?
[3] A: No, sir, it did not.
[4] Q: So, when did you leave AMEX?
[5] A: 1977 — 1978.
[6] Q: Who did you go to work for next?
[7] A: Ottawa Silica Company.
[8] Q: Where was that?
[9] A: Ottawa, Illinois.
[10] Q: What kind of work was that?
[11] A: Silica sand operation.
[12] Q: Open pit?
[13] A: Open pit.
[14] Q: How long did you work there?
[15] A: Until coming to work for Grace in 1981.
[16] Q: Did that operation have asbestos?
[17] A: No, it did not.
[18] Q: So you first came to work for W.R. Grace in
[19] 1981; correct?
[20] A: That's correct.
[21] Q: Do you remember what month or date?
[22] A: September 7th.
[23] Q: September 7, 1981?
[24] A: Mm-hum.
[25] Q: What was your first assignment with

[1] A: W.R. Grace.
[2] Q: Okay. What do you do as regional production
[3] manager for W.R. Grace right now?
[4] A: Nothing.
[5] Q: Why is that?
[6] A: Because my primary assignment is Libby,
[7] Montana.
[8] Q: What is the nature of that assignment?
[9] A: To be the first contact point for anyone, with
[10] respect to the issues that are currently happening in
[11] Libby, with respect to the EPA.
[12] Q: Do you have a title right now for that
[13] position?
[14] A: No. I am the Grace representative in Libby,
[15] Montana.
[16] Q: How long have you held that position?
[17] A: Basically, since mid-November.
[18] Q: What happened in mid-November to cause you to
[19] be assigned?
[20] A: The "Seattle Post Intelligence" news article.
[21] Q: Are you — go ahead.
[22] A: The "Seattle Post Intelligence" was the
[23] primary notification. EPA's involvement is actually
[24] what promulgated my taking the position.
[25] Q: Who assigned you to this position; what person

Page 13

[1] within Grace?
[2] A: A person named William — no, excuse me. Paul
[3] Norris.
[4] Q: What is Paul Norris's position with
[5] W.R. Grace?
[6] A: CEO.
[7] Q: Do you report directly to Paul Norris?
[8] A: No, I do not.
[9] Q: How do you know it was Paul Norris that
[10] assigned you to this position?
[11] A: He asked me.
[12] Q: Did you meet with him?
[13] A: Yes, I did.
[14] Q: Where did you meet with Paul Norris?
[15] A: In Helena, Montana.
[16] Q: How did it happen that you met with him in
[17] Helena, Montana?
[18] A: We were visiting the governor and we were
[19] visiting the Department of Environmental Quality.
[20] Q: So you and Mr. Norris were visiting Governor
[21] Racicot?
[22] A: As well as others.
[23] Q: And DEQ?
[24] A: That's correct.
[25] Q: Maybe I misunderstood when you say, "As well

Page 14

[1] as others." You mean you and Mr. Norris and other Grace
[2] representatives?
[3] A: That's correct.
[4] Q: Who else was present there?
[5] A: William Cochran.
[6] Q: What is William Cochran's position?
[7] A: He is vice-president of environmental and
[8] regulatory issues. I don't know what his full title is.
[9] He reports to Mr. Norris.
[10] Q: Who else was present from Libby — excuse me,
[11] from Grace?
[12] A: No one.
[13] Q: No one?
[14] A: No one.
[15] Q: So the three Grace representatives in the
[16] meeting with the governor and DEQ —
[17] A: Excuse me, there was one other. Jay Hughes,
[18] I'm sorry. H-U-G-H-E-S.
[19] Q: What is Jay Hughes' position with W.R. Grace?
[20] A: Jay's title? Legal counsel.
[21] MR. GRAHAM: That's right. I think it's
[22] senior legal counsel.
[23] MR. LEWIS: I know Mr. Hughes. He's the
[24] guy that always looks down his nose at me all the
[25] time.

Page 15

[1] Q: (By Mr. Lewis) And Mr. Hughes was right there
[2] with the governor, huh?
[3] A: Yes.
[4] Q: So I want to get this straight. You,
[5] Mr. Norris, Mr. Cochran, and Mr. Hughes personally met
[6] with the governor —
[7] A: That's correct.
[8] Q: — concerning the possible release of asbestos
[9] in the environment in Libby?
[10] A: Concerning the issues that were being
[11] presented in the news media in Libby, concerning the
[12] presence of EPA in Libby.
[13] Q: Not concerning the asbestos contamination in
[14] Libby; you didn't met with him concerning that?
[15] A: We met with the governor to inform him that we
[16] were concerned about the issues, we were concerned about
[17] the publicity that was there, that was saying that
[18] because of our operation in the past, there existed a
[19] risk to the people in Libby. We were concerned about
[20] the allegations that the existence of our mining
[21] operation there today posed a continuing risk to the
[22] people in Libby.
[23] Q: A risk of what?
[24] A: Health risk.
[25] Q: A health risk from what?

Page 16

[1] A: From asbestos.
[2] Q: Okay. Who was there from the governor's
[3] office?
[4] A: In the meeting with the governor there was the
[5] governor.
[6] Q: And that's all?
[7] A: That's correct. News media.
[8] Q: News media was present, too?
[9] A: Yes.
[10] Q: How about, did you meet with DEQ, also?
[11] A: Yes, we did.
[12] Q: Who from DEQ did you meet with?
[13] A: Let me clarify. We did not meet specifically
[14] with DEQ. There was a meeting held after our meeting
[15] with the governor, that was set up by the DEQ to provide
[16] the governor with a briefing of all the issues relative
[17] to W.R. Grace in the past, in their operations.
[18] He was briefed by various members of the DEQ,
[19] various departments of the DEQ, as to the history of
[20] Grace. He was briefed on our permits. He was briefed
[21] on reclamation. He was briefed on health. He was
[22] briefed on most everything that the State had, involved
[23] with W.R. Grace.
[24] Q: Who conducted the briefings?
[25] A: Mark Simonich was the lead — he's the

Page 17

Page 19

[1] director of the DEQ. There were many people that report
[2] to him who did the various parts of the briefing.
[3] Q: Did W.R. Grace brief the governor on —
[4] A: No.
[5] Q: — what had happened?
[6] A: At this meeting?
[7] Q: Yes?
[8] A: No. We were just participants — or, we sat
[9] in the audience.
[10] Q: It was a public briefing?
[11] A: Yes.
[12] Q: All right. Let's just go to your present
[13] position where you're working as a Grace representative
[14] in Libby, Montana, where you've worked since
[15] mid-November of 1999. Who is on your staff?
[16] A: Nobody.
[17] Q: Do you work alone?
[18] A: I do.
[19] Q: Do you have an office?
[20] A: Yes, I do.
[21] Q: Where is your office located?
[22] A: 317 Mineral Avenue, Libby, Montana.
[23] Q: What is that office called?
[24] A: My office.
[25] Q: I mean, does it have a sign on the door?

[1] A: That's correct.
[2] Q: So you didn't speak?
[3] A: Yes, I did.
[4] Q: You also spoke?
[5] A: I also spoke.
[6] Q: Who prepared the published written remarks?
[7] A: I couldn't say. I had input into what they
[8] were, but —
[9] Q: Who did you input that to?
[10] A: William Cochran.
[11] Q: Did you just get the prepared written remarked
[12] in the mail?
[13] A: Yes, I did, via my e-mail. That's correct.
[14] Q: From who?
[15] A: From William Cochran.
[16] Q: So Mr. Cochran sent, by e-mail, what he wanted
[17] you to put on the record of Mr. Baucus' hearing?
[18] A: That's correct.
[19] Q: And you also spoke?
[20] A: That's correct.
[21] Q: Did you just reiterate what Mr. Cochran
[22] said —
[23] A: No.
[24] Q: — or did you provide supplemental
[25] information?

Page 18

Page 20

[1] A: No, it does not.
[2] Q: Well, how do people find you?
[3] A: They have found us through notices that we've
[4] posted in the newspaper, through various public
[5] meetings, through various presentations that I've made
[6] through town with different civic groups.
[7] Q: You have made presentations in town?
[8] A: Yes, I have.
[9] Q: Are they prepared remarks?
[10] A: No, they're not.
[11] Q: Have you ever made any notes or prepared a
[12] speech to deliver to the public concerning —
[13] A: No, I have not — yes, I have, and it's a
[14] matter of public record.
[15] Q: Where is that located?
[16] A: At the talk with Senator Baucus, I made a —
[17] presented published written remarks that are part of his
[18] senate hearing record that were held in Libby two weeks
[19] ago tomorrow.
[20] Q: So you published written remarks?
[21] A: For that hearing.
[22] Q: For that hearing?
[23] A: They were entered into the record.
[24] Q: Was it just a prepared statement that was
[25] submitted into the record?

[1] A: It was neither. I was replying to remarks —
[2] or responding to remarks that had been made in the
[3] hearing by the EPA, by members of the city government,
[4] by members of the county government.
[5] Q: What were the remarks that you made? Tell me
[6] what you said.
[7] A: Reminding those people that Grace had already
[8] made a commitment to set up a separate screening program
[9] to determine if people had asbestos-related disease;
[10] Reiterated that Grace had made the commitment
[11] to provide the hospital with \$250,000 a year for the
[12] foreseeable future to cover the costs of those;
[13] That Grace had committed to providing the
[14] hospital with sufficient capital to set up the
[15] infrastructure to take care of this screening; and
[16] To reiterate the commitment that Grace had
[17] made with respect to covering the health expenses for
[18] anybody who was certified to have an asbestos-related
[19] disease as a result of our operations.
[20] Q: What was the first one? What was the first
[21] one?
[22] A: That we would give \$250,000 a year.
[23] Q: No, the one before that. You said there was
[24] screening.
[25] A: Well, it's all part of the screening.

Page 21

[1] Q: You committed to do screening?

[2] A: To do screening, that's correct.

[3] Q: Who would do the screening?

[4] A: It would be an independent screening through
[5] the hospital, with the hospital's input. But it would
[6] be an independent screening done at the hospital.

[7] Q: Is there a written record of what's been
[8] proposed there?

[9] A: Oh, yes.

[10] Q: Where could I find that?

[11] A: Go back to the "Great Falls Tribune." Go to
[12] any newspaper in Montana. And I could provide a copy.
[13] But basically, it was provided — that proposal was
[14] provided as a letter from Paul Norris, was published in
[15] the "Great Falls Tribune," the "Independent Record," the
[16] "Billings Gazette," the "Missoulian," the "Interlaken"
[17] and the "Western News."

[18] Q: You met with the governor on the last day of
[19] November; is that correct?

[20] A: I couldn't specifically tell you, but it was
[21] in that general area, in that general period of time.

[22] Q: At that meeting, did Mr. Norris say that,
[23] although Grace no longer owns the mining site, Grace
[24] plans to take full responsibility for its actions on the
[25] site?

Page 22

[1] A: That's what he said.

[2] Q: And he said Grace wasn't going to try to pass
[3] it off on anybody else?

[4] A: He didn't say that, no. He said what he said.

[5] Q: While you were present at the meeting with the
[6] governor, did the CEO of Grace, Mr. Norris, say that
[7] Grace admitted that it was responsible for the sickness
[8] and deaths that were caused by its operations in Libby?

[9] A: I don't recall him saying that.

[10] Q: Well, did he mention to the governor that he
[11] was aware of the fact that there was a significant
[12] problem with employees or former employees of Grace in
[13] Libby?

[14] A: I don't know what Mr. Norris knows or what
[15] Mr. Norris does not know. I do know that Grace knows
[16] that people have contracted serious diseases as a result
[17] of working in our operation. And I'm, again, not
[18] speaking for him, but I would assume that he knows that,
[19] too.

[20] Q: You didn't see him tell that to the governor,
[21] then?

[22] A: I don't recall what he said to the governor
[23] with respect to that. You asked me a question about,
[24] does he know.

[25] Q: You don't know but you assume he knows?

Page 23

[1] A: I have to assume he knows. He's the CEO of
[2] this operation.

[3] Q: Well, okay, we'll come back to that a little
[4] later, maybe. What about what Mr. Jay Hughes knows?
[5] Did he say anything to the governor about the problems
[6] in Libby?

[7] A: I don't recall. I don't think Mr. Hughes said
[8] anything to the governor.

[9] Q: Did Mr. Cochran say anything to the governor
[10] about the problems in Libby?

[11] A: I don't recall, but I don't think he said
[12] anything.

[13] Q: Did you say anything to the governor about the
[14] problems in Libby?

[15] A: No, I did not.

[16] Q: How long did this meeting last?

[17] A: 30 minutes, 20 minutes.

[18] Q: Did the governor do all the talking?

[19] A: Oh, yes.

[20] Q: What did the governor say to you?

[21] A: I can't quote what the governor said, but the
[22] governor basically said that he was not aware of all of
[23] the issues that are coming in town, that we're having in
[24] town; that when this broke in the newspaper, this was
[25] the first time that he was aware of issues there.

Page 24

[1] He grew up there in Libby. He never thought
[2] that there was ever a problem, and that we needed to
[3] find out what the issues were.

[4] Q: Well, let's just go back and see what Grace
[5] knew about this problem. I want to ask you, first of
[6] all — primarily, I want to ask you if you know some
[7] people. You knew Earl Lovick?

[8] A: Yes, I did.

[9] Q: Did you ever work with Earl Lovick?

[10] A: Yes, I did.

[11] Q: Was that right after you were hired in Libby
[12] in 1981?

[13] A: Yes, it was.

[14] Q: What was Earl's position then?

[15] A: Administrative manager.

[16] Q: Do you know W.J. McCaig?

[17] A: Yes, I do.

[18] Q: Who was he?

[19] A: He was the general manager that hired me.

[20] Q: Do you know where he lives now?

[21] A: Only the state.

[22] Q: What state is that?

[23] A: South Carolina.

[24] Q: Bob Oliverio, do you know him?

[25] A: I never met Bob Oliverio — or, yes, I did

Page 25

[1] momentarily one time.
[2] Q: How about Raymond Bleich?
[3] A: No, I did not.
[4] Q: R.M. Vining?
[5] A: I met Mr. Vining when I first came to work for
[6] Grace.
[7] Q: What was his position at the time?
[8] A: President of construction products.
[9] Q: C.M. Graff; do you know that name?
[10] A: Carl Graff. Met Mr. Graff one time.
[11] Q: What was his position?
[12] A: I have no idea. I think that is who
[13] Mr. Vining reported to.
[14] Q: Harry Brown?
[15] A: Never met.
[16] Q: O.F. Stewart?
[17] A: Never met.
[18] Q: Bill Melcher?
[19] A: Yes.
[20] Q: Do you know where he is now?
[21] A: Yes, I do.
[22] Q: Where is that?
[23] A: Colorado.
[24] Q: Is he still working for Grace?
[25] A: No, he is not.

Page 26

[1] Q: Is he retired from Grace?
[2] A: I assume he is.
[3] Q: How about R.T. Sterret, do you know him?
[4] A: No, I do not.
[5] Q: John Murphy?
[6] A: No.
[7] Q: Ray Kujawa, K-U-J-A-W-A?
[8] A: Yes.
[9] Q: How did you know him?
[10] A: Mr. Kujawa was a consultant to Grace, after I
[11] came on board, with respect to attaining patent on a
[12] number of mining claims that he had started the process
[13] on. I took over from him, the proving validity for the
[14] patent of those mining claims.
[15] Q: Peter Kostic?
[16] A: Did not know.
[17] Q: F.W. Eaton?
[18] A: Fred Eaton, I've met Fred Eaton.
[19] Q: Where does he work?
[20] A: He does not work for Grace.
[21] Q: Did he at the time?
[22] A: At the time I met him — I don't know — I
[23] must have probably, at one time or another, met Fred
[24] when he was at Grace. But I have met him since he
[25] retired from Grace.

Page 27

[1] Q: Dan Schnetter?
[2] A: I know who Dan Schnetter is, and I have
[3] probably met Dan Schnetter from his artwork and only
[4] through that.
[5] Q: Never worked with Dan Schnetter?
[6] A: No, I did not.
[7] Q: Mr. Eschenbach?
[8] A: Mr. Eschenbach I know.
[9] Q: Have you worked with him on cases before?
[10] A: On cases?
[11] Q: Yes, on asbestos cases.
[12] A: Yes. Worked with? No. Have I been present
[13] where there was an asbestos case being discussed? Yes.
[14] Q: When was that?
[15] A: The last — Finstad trial, he was a witness.
[16] Q: And you were present, then?
[17] A: I was at that trial.
[18] Q: Were you the Grace representative at that
[19] trial?
[20] A: Yes, I was.
[21] Q: Did you testify at that trial?
[22] A: No, I did not.
[23] Q: Did you know a Mr. Cahalane?
[24] A: I don't know.
[25] Q: C-A-H-A-L-A-N-E?

Page 28

[1] A: No.
[2] Q: Mr. Blackwood?
[3] A: No.
[4] Q: Do you know Bob Wilkins?
[5] A: Yes.
[6] Q: How do you know Bob Wilkins?
[7] A: Bob Wilkins worked for Grace when I came here.
[8] Bob was the president of the union when I came here.
[9] Q: When was that? 1981?
[10] A: 1981.
[11] Q: Now, let me see if I got this straight. You
[12] came to work in 1981 as the mine superintendent.
[13] A: That's correct.
[14] Q: Would that mean you would have your office on
[15] the hill?
[16] A: That's correct.
[17] Q: Worked right up there on the hill?
[18] A: That's correct.
[19] Q: And that lasted until July of '88.
[20] A: In that position, yes.
[21] Q: And then you became general manager of the
[22] mill?
[23] A: That's correct.
[24] Q: Were you responsible for shutting down and
[25] reclaiming the mine?

Page 29

[1] A: Yes, I was.
[2] Q: Who was your immediate supervisor in September
[3] '81 when you went to work for Grace?
[4] A: Bill McCaig.
[5] Q: Now, you had just come from another company?
[6] A: Yes.
[7] Q: How did you get this job with Grace? Did they
[8] recruit you? Or did you apply? Or what?
[9] A: They recruit. I had contacted a professional
[10] recruiter and provided him with my resume. He contacted
[11] Bill McCaig, and put McCaig and I in contact with each
[12] other. I interviewed with Bill McCaig.
[13] Q: Did you fill out a formal employment
[14] application?
[15] A: Only after I was offered the job.
[16] Q: Where did you met with Mr. McCaig?
[17] A: In Libby.
[18] Q: Where were you living at that time?
[19] A: Ottawa, Illinois.
[20] Q: Did the company pay for your trip out to Libby
[21] for the interview?
[22] A: Yes, they did.
[23] Q: So, you met with him in Libby. What did he
[24] tell you about the operation in Libby?
[25] A: I guess I don't recall. I remember the tour.

Page 30

[1] I remember him showing me the operation, showing me how
[2] we mined, showing me how we milled it, showing me how we
[3] separated, how we concentrated the material, how we
[4] shipped it. Introduced me to couple of the various
[5] people who were a part of the operation.
[6] Q: Had you had experience with that kind of
[7] operation before?
[8] A: I'm a mining engineer by training, by
[9] education, by experience.
[10] Q: I understand that.
[11] A: And this was a surface mine, and I had spent
[12] 10 to 12 years prior to that in a surface mine.
[13] Q: Okay. And in the surface mine that you worked
[14] before, did they have the same sort of concentration
[15] system?
[16] A: No.
[17] Q: Same kind of waste disposal system?
[18] A: No.
[19] Q: But you had professional training and
[20] experience in mining, to the extent that this was not
[21] something that was strange to you; is that correct?
[22] A: That's correct.
[23] Q: And you felt fully capable of functioning as a
[24] mine superintendent —
[25] A: Absolutely.

Page 31

[1] Q: And I wasn't finished with my question. But
[2] could I fairly presume that there would be a short
[3] breaking-in period where you would learn more about your
[4] people and your equipment and your operation, after you
[5] were hired?
[6] A: I think that's typical of anybody going to any
[7] new job.
[8] Q: But you primarily answered to Mr. McCaig,
[9] right?
[10] A: Totally.
[11] Q: And was Mr. Lovick still employed by Grace at
[12] the time?
[13] A: Yes, he was.
[14] Q: What was his position?
[15] A: As I said before, administration manager.
[16] Q: Where was his office?
[17] A: In Libby.
[18] Q: Who was your number one assistant on your
[19] staff when you were mine superintendent in 1981?
[20] A: There were two people who had parallel
[21] positions.
[22] Q: What were their names?
[23] A: Eric Moeller, E-R-I-C, M-O-E-L-L-E-R.
[24] Q: Eric Moeller?
[25] A: And E. Wallace M-O-R-E-A-U.

Page 32

[1] Q: Where does Mr. Moeller live?
[2] A: Boston, Massachusetts.
[3] Q: Who does he work for?
[4] A: W.R. Grace.
[5] Q: Where does Mr. Moreau live?
[6] A: Libby, Montana. Retired.
[7] Q: He's retired from Grace?
[8] A: Yes.
[9] Q: Does he help you on these projects now?
[10] A: No.
[11] Q: Has he been on the payroll of Grace in any
[12] capacity since he retired?
[13] A: With Grace? No, not to my knowledge.
[14] Q: When did he retire?
[15] A: 1990.
[16] Q: Was that about the time that the mill closed?
[17] A: It was exactly at time the mill closed.
[18] Q: Did Mr. Moeller stay in Libby until the mill
[19] closed?
[20] A: No, he did not. He left in approximately 1982
[21] or '83.
[22] Q: What was Mr. Moeller's position when you came
[23] to work?
[24] A: He was the mine planning engineer.
[25] Q: What is his position with Grace now, if you

Page 33

Page 35

[1] know?
[2] A: I don't know his specific title, but he works
[3] for Grace Specialty Chemicals.
[4] Q: When you were hired on, in September 1981, did
[5] Mr. McCaig or any other management official from Grace
[6] tell you that there was a significant asbestos exposure
[7] hazard at the mill you were going to manage?
[8] A: I don't recall.
[9] Q: Do you recall one way or the other?
[10] A: No.
[11] Q: Well, you were a man trained in mining with
[12] experience in open pit mining; correct?
[13] A: That's correct.
[14] Q: Would you agree with me that health hazards
[15] are critically important to you in the management of a
[16] mill where so many men are involved?
[17] A: That's true.
[18] Q: If Mr. McCaig or Mr. Lovick or anybody from
[19] Grace had told you about an asbestos hazard in that
[20] mill, don't you think you would have remembered that?
[21] A: That isn't the question you asked me.
[22] Q: Well, I asked you if they told you.
[23] A: You asked me if there was a significant
[24] problem with asbestos there, and I said no.
[25] Now, to answer your question, did they tell me

[1] then don't anticipate my question.
[2] A: I'm trying not to.
[3] Q: I'm trying to go slow and deliberate, so I'm
[4] being fair to you and so I'm allowing you a lot of
[5] latitude. But try to just answer the question, that I
[6] ask. Okay?
[7] A: Fair enough.
[8] Q: And if my question is confusing, I'll restate
[9] the question. All right?
[10] A: As long as you understand it, I'll answer the
[11] question as asked.
[12] Q: Do you have anything else you want to say
[13] about that?
[14] A: No, no.
[15] Q: You should answer the question that's asked,
[16] under oath, and that question only. Fair enough?
[17] A: Fair enough.
[18] Q: I want to get this straight, you were told
[19] when you were hired on, the only thing you were told was
[20] that there was asbestos in the ore that was being mined,
[21] correct?
[22] A: What I was told, and what I recall that I was
[23] told, was that asbestos existed as a contaminant in the
[24] ore body and it was a mineral that we had to manage.
[25] Q: That's all you were told?

Page 34

Page 36

[1] that asbestos existed in that operation, the answer is
[2] yes.
[3] Q: Okay. So they told you that asbestos existed
[4] in that operation?
[5] A: That's correct.
[6] Q: They did not tell you that there was a
[7] significant health hazard associated with it; is that
[8] your testimony?
[9] A: I don't recall whether they told me whether
[10] there was a significant health hazard or not. They told
[11] me that it existed in the ore body, it was a part of the
[12] contaminant, that it was a mineral that we had to
[13] manage.
[14] Q: What kind of asbestos?
[15] A: Tremolite.
[16] Q: Did you know what tremolite asbestos was —
[17] A: No, I did not.
[18] Q: — in 1981 when you hired on?
[19] A: No, I did not.
[20] THE COURT REPORTER: Make sure to let
[21] him finish his question.
[22] MR. LEWIS: He's just anxious to get
[23] done.
[24] Q: (By Mr. Lewis) There's a couple things you
[25] need to do. You need to wait until I'm finished, and

[1] A: That's all I recall.
[2] Q: Sp you don't recall if anybody told you that
[3] this asbestos was a hazard to the men working in the
[4] mill that you were going to manage; is that fair?
[5] A: No, it's not fair. What I know about asbestos
[6] as a mining engineer, what I know about asbestos as a
[7] human being, I know that asbestos is hazardous to
[8] people's health.
[9] Q: Did you know that in 1981?
[10] A: Absolutely.
[11] Q: When did you first learn that asbestos was
[12] hazardous to people's health?
[13] A: I have no idea.
[14] Q: Did you learn it when you were in mining
[15] school in Colorado, in the early '70s?
[16] A: Possibly.
[17] Q: Now, I want to know what you were told, okay;
[18] not what you know, all right? You said you were just
[19] going to answer the questions that are asked.
[20] What I asked you is: Did Mr. Lovick,
[21] Mr. McCaig, or anyone else, tell you that the asbestos
[22] in the ore was a serious health hazard to the men
[23] working at the mill?
[24] A: I don't recall.
[25] Q: Don't recall one way or the other?

Page 37

[1] A: One way or the other.
[2] Q: You managed that mill through 1988, correct?
[3] A: That's not true.
[4] Q: Well, you said you were the mining
[5] superintendent until July 1988?
[6] A: Okay, that's correct.
[7] Q: Okay, explain that to me.
[8] A: I managed the mine until 1988. I did not
[9] manage the mill until 1988.
[10] Q: Did you ever manage the mill?
[11] A: Specifically, the mill, itself?
[12] Q: Yes.
[13] A: No.
[14] Q: So, you were the mine superintendent, only
[15] worked in the mine?
[16] A: That's correct.
[17] Q: Who managed the mill?
[18] A: Mill superintendent.
[19] Q: Who was that?
[20] A: Luis Vazquez, V-A-Z-Q-U-E-Z.
[21] Q: Do you know where Mr. Vazquez is now?
[22] A: No, I do not.
[23] Q: Is he still alive?
[24] A: Yes.
[25] Q: When did you last see Mr. Vazquez?

Page 38

[1] A: July 1994.
[2] Q: What were the circumstances of that meeting?
[3] A: He was doing some training for me because he
[4] speaks Spanish and my employees were predominantly
[5] Spanish.
[6] Q: Where was that?
[7] A: Santa Ana, California.
[8] Q: Who was his employer at the time?
[9] A: W.R. Grace.
[10] Q: Is he still employed by Grace?
[11] A: No, he is not.
[12] Q: And you have no idea where Mr. Vazquez is?
[13] A: I know what state he is in.
[14] Q: What state is that?
[15] A: Texas.
[16] Q: So your responsibility was in the mine itself,
[17] right?
[18] A: That's correct.
[19] Q: What went on in the mine? I know what went on
[20] in the mine, but I need a record of it, okay. So, in
[21] general terms, tell us what was the mission of the men
[22] who worked in the mine.
[23] A: To move vermiculite-bearing rock to the mill.
[24] Q: How was that done, in general terms?
[25] A: Using front-end loaders and 85-ton haul

Page 39

[1] trucks.
[2] Q: And this was an open pit operation?
[3] A: That's correct.
[4] Q: What, if anything, did you do to tell the men
[5] that worked for you that there was a significant health
[6] hazard associated with asbestos exposure at the mine?
[7] A: I don't understand the question.
[8] Q: Did you ever tell the men that worked for you
[9] at the mine, that there was a significant health hazard
[10] associated with asbestos exposure in Libby?
[11] A: What I told the people who worked for me is
[12] that there was a risk to being exposed to asbestos. And
[13] that, therefore, that is why they operated in air
[14] conditioned, sealed cabs, and that is why that, when
[15] they were in a dusty environment in the transfer point
[16] or some other place, that they had to have respirators.
[17] MR. LEWIS: Move to strike the question
[18] as completely unresponsive — excuse me, move to
[19] strike the answer as completely unresponsive to
[20] the question.
[21] Now, ma'am, would you please read back the
[22] question.
[23] (Whereupon, the court reporter read back the
[24] last question.)
[25] A: I don't recall.

Page 40

[1] Q: (By Mr. Lewis) Did you ever talk to Mr. Earl
[2] Lovick about the asbestos exposure problem in Libby?
[3] A: I don't know how that answer that question.
[4] There were conversations I had with Mr. Lovick about the
[5] asbestos issue.
[6] Q: When did Mr. Lovick leave W.R. Grace?
[7] A: I don't recall the date.
[8] Q: Would it have been in the early '80s?
[9] A: I don't know when Mr. Lovick left, but it was
[10] not in the late '80s.
[11] Q: It was in the '80s, but not the late '80s?
[12] A: That's correct.
[13] Q: Did Mr. Lovick ever tell you that he had
[14] asbestos-related lung disease?
[15] A: No, he did not.
[16] Q: Did he ever tell you that he had surgery for
[17] asbestos-related lung disease in the early 1970s?
[18] A: No, he did not.
[19] Q: Did anybody up there tell you, before you were
[20] hired, that men had died from asbestos exposure at the
[21] Libby facility?
[22] A: No, they did not.
[23] Q: Do you know that Mr. Lovick, himself, filed a
[24] claim for asbestos-related lung disease in 1983 when he
[25] retired?

Page 41

[1] A: No, I did not.
[2] Q: How long did Mr. McCaig remain general manager
[3] of the mine after you were hired as mine superintendent?
[4] A: Until I became general manager.
[5] Q: So Mr. McCaig was the general manager until
[6] July of 1988?
[7] A: That's correct.
[8] Q: And then what did he do?
[9] A: He was transferred to Cambridge,
[10] Massachusetts.
[11] Q: Is he still with the company?
[12] A: No, he is not.
[13] Q: Does he work in a consulting capacity for the
[14] company?
[15] A: Not to my knowledge.
[16] Q: Is Mr. Eschenbach with the company?
[17] A: No, he is not.
[18] Q: When did he last work with the company?
[19] A: I have no idea. Excuse me, ask that question
[20] again.
[21] Q: Is Mr. Eschenbach still with the company?
[22] A: No, he is not. You asked two questions. When
[23] was the last time he worked for the company, you said?
[24] I didn't know if you said "for" or "with."
[25] Q: I said for.

Page 42

[1] A: Then I don't know.
[2] Q: Okay. Well, now we'll go with "with." When
[3] was the last time he worked with the company?
[4] A: I saw him at the Finstad trial and he was a
[5] Grace witness.
[6] Q: Did he consult in the litigation of these
[7] cases against Grace? Would that be a fair —
[8] A: You would have to ask counsel.
[9] Q: When was the Finstad trial?
[10] A: May 1999.
[11] Q: What was your position with Grace at that
[12] time?
[13] A: Regional production manager.
[14] Q: Where was your office?
[15] A: Santa Ana, California.
[16] Q: Why did you come to the Finstad trial?
[17] A: Because I was asked to.
[18] Q: Did you assist with the preparation of the
[19] trial?
[20] A: No, I did not.
[21] Q: What did you do?
[22] A: Tried to stay awake.
[23] Q: You just sat in the trial?
[24] A: That's correct.
[25] Q: Pretty boring to you, that you almost fell

[1] asleep in the trial; is that what you're saying?
[2] A: I think listening to the reading of
[3] depositions hour after hour is not the most stimulating
[4] way to spend the morning.
[5] Q: So that was pretty boring to you?
[6] A: I didn't say that. I said listening to the
[7] reading of depositions is not very stimulating.
[8] Q: Was Mr. Lovick able to attend the trial at
[9] that time?
[10] A: No, he was not.
[11] Q: Was he dead?
[12] A: No, he was not.
[13] Q: But he was very sick, right?
[14] MR. GRAHAM: He was dead at the time.
[15] A: Oh, the Finstad trial. I'm thinking of the
[16] February trail; he was sick. The May trail he was dead.
[17] Q: (By Mr. Lewis) Did you also appear in another
[18] trial?
[19] A: Yes, I have.
[20] Q: What trial was that?
[21] A: The Graham trial. And the Benefield trial.
[22] Q: You were the corporate representative for both
[23] of those?
[24] A: Yes, I was.
[25] Q: And that's because Mr. Lovick was sick, or

Page 44

[1] dead?
[2] A: Whatever reason.
[3] Q: Did you know anything about any of those three
[4] cases?
[5] A: Specific to what?
[6] Q: I mean, did you have any relevant knowledge
[7] concerning any of those three cases that you sat
[8] through?
[9] A: No.
[10] Q: Did you have trouble staying awake during the
[11] depositions of the first two trials, as well?
[12] A: I don't recall.
[13] Q: Have you reviewed any documents in preparation
[14] for your deposition today?
[15] A: Yes, I have.
[16] Q: What documents have you reviewed?
[17] A: Specifically, I don't recall. Just documents
[18] in the '80s.
[19] Q: W.R. Grace documents?
[20] A: For the most part.
[21] Q: Who provided them to you?
[22] A: Mr. Graham.
[23] MR. LEWIS: Counsel, were they just
[24] exhibits?
[25] MR. GRAHAM: Yeah. What I did was just

Page 45

[1] started in 1981 when Alan started there, and we
[2] went through the common exhibits — which I think
[3] include all of the G exhibits — and just showed
[4] them to him to ask him if he recognized them.
[5] Q: (By Mr. Lewis) Did you look at any other
[6] documents besides those exhibits, if you know?
[7] A: With Mr. Graham?
[8] Q: Yes.
[9] A: No.
[10] Q: Have you looked at any other documents besides
[11] the ones that you looked through with Mr. Graham or at
[12] Mr. Graham's request? I'll rephrase the question.
[13] Have you looked at any other documents
[14] concerning the asbestos problem at Libby, besides the
[15] ones Mr. Graham showed you?
[16] MR. GRAHAM: In preparation for the
[17] deposition, in particular?
[18] MR. LEWIS: For any reason.
[19] A: Have I looked or have I seen are two different
[20] questions. Have I looked at? No. Have I seen? Yes.
[21] Q: (By Mr. Lewis) The distinction there, if
[22] you've seen them that doesn't mean you've carefully
[23] reviewed them?
[24] A: That's correct.
[25] Q: What other documents have you seen concerning

Page 46

[1] the problem?
[2] A: Any document presented as part of — or as
[3] part as an exhibit in any of the three trials that I've
[4] sat in.
[5] Q: How about documents to the EPA; have you seen
[6] those?
[7] A: No, I have not.
[8] Q: Have you seen any documents submitted to
[9] Conrad Burns?
[10] A: No.
[11] Q: Have you seen any documents submitted to Mike
[12] Greeley?
[13] A: No.
[14] Q: Any documents submitted to Representative
[15] Hill?
[16] A: No.
[17] Q: You did say you saw some documents submitted
[18] to Senator Baucus, right?
[19] A: Well, documents and my speech are two
[20] different issues.
[21] Q: Okay. Well, I thought that when you said the
[22] written preparation for Baucus wasn't yours it came
[23] from —
[24] A: If you consider that a document, then the
[25] answer is yes.

Page 47

[1] Q: Okay. So you submitted that same document to
[2] Representative Hill?
[3] A: I do not know if Mr. Hill, Representative
[4] Hill, got a copy of that.
[5] Q: How about Senator Burns?
[6] A: I am not aware whether he specifically got it
[7] or not.
[8] Q: How about the governor, did he see that
[9] document?
[10] A: I'm not aware whether he specifically saw that
[11] document or not.
[12] Q: Has W.R. Grace sent the governor of the State
[13] of Montana any documents relating to the asbestos health
[14] hazard at the Libby —
[15] A: I'm not aware of any.
[16] Q: Have you made any reports to your immediate
[17] supervisor concerning what is occurring in Libby since
[18] you took your temporary position as primary contact for
[19] Grace in Libby in mid-November 1999?
[20] A: Yes.
[21] Q: What kind of written statements have you made?
[22] A: Well, you didn't ask if I made any written,
[23] you asked if I made any statements.
[24] Q: So you have communicated with your supervisor?
[25] A: Yes, I have.

Page 48

[1] Q: And that's who? Mr. Cochran?
[2] A: Mr. Cochran.
[3] Q: Have you communicated by e-mail?
[4] A: Yes, I have.
[5] Q: Have you communicated by mail?
[6] A: No, I have not.
[7] Q: Have you communicated in any written document,
[8] whatsoever, with Mr. Cochran since you took this
[9] position in mid-November 1999?
[10] A: Yes, I have.
[11] Q: In what way?
[12] A: In signing my agreement to come and take this
[13] job.
[14] Q: So you signed an agreement to take this job?
[15] A: That's correct.
[16] Q: Were you already employed by Grace at that
[17] time?
[18] A: Yes, I was.
[19] Q: Why did you sign an agreement —
[20] MR. GRAHAM: I would object on the basis
[21] that this is totally irrelevant to any claims by
[22] Mr. Wilkins. And I'd let the witness answer this
[23] question, but if we go any deeper in this, I will
[24] be moving for a protective order.
[25] A: Restate the question.

Page 49

[1] MR. LEWIS: Read the question back,
[2] please.
[3] (Whereupon, the court reporter read the last
[4] question back.)
[5] Q: (By Mr. Lewis) Did you sign an agreement with
[6] Grace for your current job?
[7] A: Yes, I did.
[8] Q: Did you have counsel represent you in the
[9] preparation of that agreement?
[10] A: No, I did not.
[11] Q: Who prepared the agreement?
[12] A: I did.
[13] Q: You prepared it on your own?
[14] A: Yes.
[15] Q: Did you have a written agreement with Grace to
[16] work in your job prior to this temporary assignment?
[17] A: No, I did not.
[18] Q: Do have you a copy of that agreement?
[19] A: Do I have a copy? Yes, I do.
[20] Q: Why did you feel you needed to have a special
[21] agreement to represent Grace in this temporary job?
[22] MR. GRAHAM: I would object on the basis
[23] that there is no relevance, whatsoever, of this
[24] question to any of the claims in which counsel
[25] represents claimants. And we would — I can

Page 50

[1] indicate to counsel that we would move for a
[2] protective order, as a consequence, with regard to
[3] any further questions of his individual
[4] relationships with W.R. Grace concerning his
[5] current position. We would instruct the witness
[6] not to answer.
[7] MR. LEWIS: Read the question back,
[8] again, please.
[9] (Whereupon, the court reporter read back the
[10] last question.)
[11] Q: (By Mr. Lewis) Counsel has instructed you not
[12] to answer that question. Are you not going to answer
[13] that question?
[14] A: I'm going to do what my counsel advises.
[15] Q: Is Mr. Graham your counsel?
[16] A: Mr. Graham, as far as I know, is Grace's
[17] counsel and is representing me here as part of that.
[18] Q: Okay. You don't have an independent
[19] individual counsel that's representing you?
[20] A: No, I do not.
[21] Q: Are you refusing to answer that question?
[22] A: I'm going on the advice of my counsel.
[23] Q: Have you showed that agreement to your
[24] counsel?
[25] A: No, I have not.

Page 51

[1] Q: Does he know what's in it?
[2] A: I doubt it.
[3] Q: Who signed the agreement on behalf of Grace,
[4] if you know?
[5] MR. GRAHAM: I'm going to make the same
[6] objection. Unless counsel can specify, on the
[7] record, what relevance Mr. Stringer's agreement
[8] for the performance of his duties as Grace's
[9] representative have to the Wilkins case or to the
[10] Swennes case or to any currently pending cases
[11] which he has, I'm going to make the same objection
[12] and we'll seek a protective order, unless somehow,
[13] you can explain why those are relevant.
[14] MR. LEWIS: Are you finished?
[15] MR. GRAHAM: Yes, I am.
[16] MR. LEWIS: Let the record reflect
[17] nobody's yelling, nobody's angry, we're being
[18] fairly professional here. There's a little
[19] difficulty here but we're acting like gentleman.
[20] I would just state for the record, Gary, I
[21] don't know what's in the agreement. I don't know why it
[22] was signed. It sounds unusual to me. It may go to this
[23] witness' bias and credibility. I'm just making a record
[24] at his request.
[25] And the standard for discovery is not trial

Page 52

[1] relevance, it's whether the evidence sought is
[2] calculated to lead to discoverable evidence. And I
[3] think I would be entitled to obtain this document.
[4] But you're advising me that you're going to
[5] continue to instruct the witness not to answer questions
[6] concerning this agreement; is that correct?
[7] MR. GRAHAM: Well, what I'm worried
[8] about here is, it sounds to me like the emphasis
[9] on this whole deposition, as it now has turned,
[10] the emphasis has turned to the relationship
[11] between Alan Stringer and W.R. Grace as it exists
[12] in the year 2000, as opposed to what it existed in
[13] 1981 through 1990, or '94, which is really the
[14] only relevant purposes for — in connection with
[15] this lawsuit.
[16] Now, Alan, says that he doesn't mind telling
[17] you what it is — why it is that he entered into this
[18] agreement. I guess, the last question, so I'll be
[19] guided by what Alan has to say.
[20] The problem that I see is getting involved in
[21] a lengthy examination concerning communications that
[22] he's had with his bosses, which I think is a real
[23] problematic area.
[24] MR. LEWIS: Here's the problem, Gary.
[25] The witness was quick to volunteer the fact that

Page 53

[1] W.R. Grace is putting together this screening
[2] program and this sort of thing.
[3] MR. GRAHAM: Sure.
[4] MR. LEWIS: And I think I'm — that
[5] makes it possible for me to inquire as to the
[6] current relationship. Because all of these cases
[7] that are going to be screened, and he's dealing
[8] with, all relate, for the most part, to exposures
[9] that occurred years ago. And I'm entitled to the
[10] inquire as to what is the motivation of the
[11] company.
[12] I mean, because, I've read the press, and the
[13] company is making the case that they're coming clean now
[14] and that they are going to do the right thing and take
[15] care of these people. And I'm entitled to inquire about
[16] that.
[17] MR. GRAHAM: You're entitled to inquire
[18] as to —
[19] MR. LEWIS: Excuse me. And, Gary, he is
[20] W.R. Grace in Libby for all intents and purposes.
[21] MR. GRAHAM: He is, indeed.
[22] MR. LEWIS: And that's the problem.
[23] MR. GRAHAM: But the point that I'm
[24] getting at is, there's some sort of a limit on how
[25] far you can inquire into his, sort of, personal

Page 54

[1] motivations to do things.
[2] MR. LEWIS: Oh, yeah, and I'm not going
[3] farther.
[4] MR. GRAHAM: Okay.
[5] MR. LEWIS: Mainly, I'm interested and
[6] concerned with what communications are going back
[7] and forth between him and his boss, and that's
[8] where we're going to go. I just stumbled onto
[9] this thing.
[10] MR. GRAHAM: I have some problems with
[11] that.
[12] MR. LEWIS: Well, why? That's not
[13] protected.
[14] MR. GRAHAM: No. The problem that I
[15] have with that is how on earth — what
[16] communications are going back and forth between
[17] Mr. Stringer and Mr. Cochran and Mr. Hughes, and
[18] the president of the company and me, as far where
[19] all of this is going, get into the point of
[20] starting to infringe on —
[21] MR. LEWIS: Attorney/client privilege.
[22] MR. GRAHAM: — attorney/client
[23] privilege and things of that nature, because there
[24] are people involved in that.
[25] MR. LEWIS: I didn't ask about any

Page 55

[1] communications to an attorney. I asked about
[2] ordinary communications between him and his
[3] immediate supervisor.
[4] MR. GRAHAM: Well, I'm going to — let's
[5] go at this one at a time. As far as the question
[6] about the agreement of employment, go ahead and
[7] answer that one, Alan.
[8] THE WITNESS: I had a very good job in
[9] California, and I'm 56 years old and I didn't know
[10] how long this job was going to take. This is a
[11] position that doesn't exist in any part of our
[12] human resources, laid out these positions. I
[13] wanted assurances from Grace that when this was
[14] finished, I would have a job or I would have a
[15] sufficient severance package that would get me to
[16] my retirement.
[17] Q: (By Mr. Lewis) And that agreement covers
[18] those issues?
[19] A: That's correct.
[20] Q: Okay, I won't go there anymore.
[21] MR. LEWIS: If I think I can get that
[22] document, I will request it. Is that
[23] satisfactory?
[24] MR. GRAHAM: That's fine.
[25] MR. LEWIS: Well, let me ask one more

Page 56

[1] question, Counsel.
[2] Q: (By Mr. Lewis) Is part of this agreement,
[3] does it require you to be in litigation liaison or
[4] appear in court?
[5] A: No.
[6] Q: It doesn't cover that at all?
[7] A: It does not.
[8] Q: Let's go to the communications with your
[9] immediate supervisor, Mr. Cochran. You've had,
[10] essentially, verbal communications with him since you
[11] went to Libby, and e-mail communications; is that
[12] correct?
[13] A: With the exception of the agreement that I
[14] signed, everything, 100 percent, has been either verbal
[15] or e-mail.
[16] Q: Do you save those e-mail communications?
[17] A: If they're relevant I do.
[18] Q: Do you have a file with those e-mail
[19] communications?
[20] A: Electronic, yes.
[21] MR. LEWIS: I'd like the record to
[22] reflect that Plaintiff intends to request copies
[23] of all e-mail communications between Mr. Stringer
[24] and Mr. Cochran, and ask the witness not to
[25] dispose of those in any way.

Page 57

Page 59

[1] Q: (By Mr. Lewis) Is that satisfactory?
[2] A: That's fine.
[3] Q: Have you had any written communications with
[4] the CEO of W.R. Grace, Mr. Norris?
[5] A: Excuse me. Ask the question again.
[6] Q: Have you had any of those sorts of
[7] communications with Mr. Norris since you took the job?
[8] A: No. Since I took the job? No.
[9] Q: How about with Mr. Jay Hughes? Don't tell me
[10] what was said, because I don't know if he functions as
[11] counsel here or not, but —
[12] A: I've had conversations with Mr. Hughes.
[13] Q: And any e-mail communications?
[14] A: I'm sure.
[15] Q: Do you recognize him as counsel for
[16] W.R. Grace?
[17] A: Yes, I do.
[18] Q: And were these intended to be privileged
[19] communications with him? If you know.
[20] A: I don't know.
[21] Q: In any event, they were sent over e-mail?
[22] A: Yes, they were.
[23] Q: Have you received any written communications
[24] from Mr. Norris, Mr. Hughes, or Mr. Cochran since you
[25] took this job, other than e-mail communications?

Page 58

Page 60

[1] A: No. No.
[2] Q: Have you been given a job description in
[3] writing by your supervisor?
[4] A: No.
[5] Q: Have you been told what to do by your
[6] supervisor, in this temporary job?
[7] A: Yes.
[8] Q: What have you been told?
[9] A: To act as the first contact for people who
[10] have any question relative to the issues that are
[11] presently going on in Libby.
[12] Q: Have you had a lot of contact with the public
[13] in that job?
[14] A: Yes, I have.
[15] Q: With individuals who came to see you?
[16] A: Yes.
[17] Q: Have you paid any medical bills for any of the
[18] people who came to see you?
[19] A: No.
[20] Q: Why not?
[21] A: Because that is an issue that will be set up
[22] in our medical screening — or our medical — part of
[23] our medical program that is still being developed. And
[24] once that's done, people will have a place to go to take
[25] care of those bills, and it will not be with me.

[1] Q: When will that be set up; do you know?
[2] A: As soon as possible.
[3] Q: Well, have you had people come in and say,
[4] I've been diagnosed with asbestos-related disease, can
[5] you help me?
[6] A: I have had one person come in and say that
[7] they have asbestos-related disease, and they want Grace
[8] to pay for their inhalers.
[9] I have had one person come up to me and say
[10] that they have been diagnosed with asbestos-related
[11] disease, and they need some help on medication payments.
[12] I have had one person come up to me and say
[13] that they have been diagnosed with an asbestos-related
[14] disease and they're worried about insurance for their
[15] wife and their children.
[16] Q: So three people, only, have come up to you —
[17] A: I have had one person come up to me —
[18] Q: You'll have to wait for me to finish.
[19] A: I wasn't finished.
[20] Q: Well I waited a long time for you.
[21] MR. GRAHAM: Let's just make sure the
[22] record is clear on it.
[23] Q: (By Mr. Lewis) Just to make sure. You
[24] mentioned three people, now you're saying there's more?
[25] Go ahead.

[1] A: I've had one person come up to me and show
[2] that their parent has had some diagnostic work done and
[3] wanted to know if Grace would pay for it. That's all I
[4] can recall at this time.
[5] Q: Just because the last one is the one that's
[6] closest to my memory, without telling me the name of the
[7] person, someone from — a member of a family came to you
[8] and asked that Grace pay for certain diagnostic tests
[9] that had already been done; is that correct?
[10] A: That's correct.
[11] Q: What did you tell that person?
[12] A: That until such time as the medical
[13] screening — or the medical coverage program was set up,
[14] that there wasn't anything that I could do; that would
[15] all have to be done once the medical program had set up,
[16] and it was determined who was eligible and what expenses
[17] were covered; and that at that time, to bring those
[18] charges back — or we'd provide them to the mechanism
[19] that's going to take care of that.
[20] Q: Was the person who was sick a very elderly
[21] person, if you recall?
[22] A: I don't recall. I'm 56, so I don't know what
[23] very elderly is.
[24] Q: Well, I hope that's not very elderly.
[25] A: Me too.

Page 61

[1] MR. GRAHAM: So do I.
[2] Q: (By Mr. Lewis) Well, I guess what I was
[3] trying to get at, it was a member of the family that
[4] came to you —
[5] A: That's correct.
[6] Q: — not himself or herself?
[7] A: That's correct.
[8] Q: Was there a claim that that person was too
[9] feeble to come down and represent his or her own
[10] interest?
[11] A: I don't recall that that was an issue.
[12] Q: Have you heard of anybody recently being
[13] diagnosed with mesothelioma, since you became —
[14] A: Not that I recall.
[15] Q: — since you became the temporary contact for
[16] Grace in Libby? —
[17] A: Not that I recall.
[18] Q: Now, you've indicated this medical screening
[19] program with the doctors and the funding that you're
[20] going to provide for St. John's Lutheran Hospital.
[21] A: Right.
[22] Q: You gave me some details about that. There
[23] was screening to be done by doctors, right?
[24] A: No. I don't know that I said that. I said
[25] that Grace would provide funding so that an independent

Page 62

[1] screening program could be set up at the hospital.
[2] Q: Well, you don't know if that would be done by
[3] doctors or technicians; is that what you're saying?
[4] A: Whatever it takes to determine a screening, a
[5] testing, and a diagnosis.
[6] Q: So, \$250,000 a year to the hospital?
[7] A: That's correct.
[8] Q: Plus funds sufficient for capital expenditures
[9] for the infrastructure of the hospital?
[10] A: That's correct.
[11] Q: And payment for treatment that was necessary;
[12] is that correct?
[13] A: That's correct.
[14] Q: And you've told people who have inquired about
[15] that?
[16] A: Yes, I have.
[17] Q: So, if somebody comes into your office, you
[18] have told them about that?
[19] A: Yes, I have.
[20] Q: Do you have that in writing somewhere, to tell
[21] you exactly what's going to be done?
[22] A: No, I do not, because we don't know what's
[23] going to be done yet.
[24] Q: Where did you get the \$250,000 per year
[25] figure?

Page 63

[1] A: From a notification that our CEO provided with
[2] the announcement that was made.
[3] Q: He notify you in writing of that?
[4] A: Me specifically?
[5] Q: Yes.
[6] A: No.
[7] Q: Who did he notify of that?
[8] A: I read it in the announcement.
[9] Q: Okay. It was the announcement that was in the
[10] paper?
[11] A: That's correct.
[12] Q: Do you know if St. John's Lutheran Hospital
[13] even has the equipment to do the kind of screening that
[14] will be required?
[15] A: No, I don't.
[16] Q: Do you know if there's any pulmonologist or
[17] specialist at the St. John's Lutheran Hospital that's
[18] capable of doing this screening?
[19] A: No, I do not.
[20] Q: Is the idea that that would be contracted out
[21] to some — so you could bring somebody in? Is that the
[22] idea? If you know.
[23] A: I don't know.
[24] MR. LEWIS: Let's take a little break.
[25] MR. GRAHAM: That would be fine.

Page 64

[1] (Whereupon, the deposition was in recess at
[2] 11:00 a.m., and subsequently reconvened at 11:10 a.m.,
[3] and the following proceedings were had and entered of
[4] record:)
[5] Q: (By Mr. Lewis) In your present position, do
[6] you do any lobbying?
[7] A: In the — in the true sense of politics, no.
[8] Q: Do you talk to legislators?
[9] A: No.
[10] Q: And politicians?
[11] A: Have I? Yes. Do I as a matter of routine?
[12] No.
[13] Q: I'm not talking about the public forums that
[14] were put up by Baucus, and I guess, Burns met with some
[15] people?
[16] A: Yes. And so did Rick Hill.
[17] Q: You went to those?
[18] A: Yes.
[19] Q: And you went to the ones where the governor
[20] came over?
[21] A: Yes.
[22] Q: Talking about other forums, have you had
[23] private meetings or communications with Mr. Burns,
[24] Senator Burns?
[25] A: No, I have not.

Page 65

[1] Q: Any private communications with Representative
[2] Hill?
[3] A: No, I have not.
[4] Q: Any private communications with Mr. Baucus?
[5] A: No, I have not.
[6] Q: And you mentioned the only contact you've had
[7] with the governor, I assume, was the meeting that you
[8] described earlier?
[9] A: Again, the answer is no.
[10] Q: What other contacts have you had with him?
[11] A: I have seen the governor in the restaurants in
[12] town and said hello, and how are you.
[13] Q: I'm talking about — I'm limiting this to
[14] communications concerning the problem in Libby. Have
[15] you had any other communications with the governor
[16] concerning that —
[17] A: No.
[18] Q: — besides the one you described earlier?
[19] A: No, I have not.
[20] Q: What politicians have you talked to about the
[21] problem in Libby, other than Governor Racicot,
[22] Representative Hill, and the two Montana senators?
[23] A: I have had conversations with Senator
[24] Crismore, I have had conversations with Representative
[25] Orr.

Page 66

[1] Q: From Libby?
[2] A: From Libby.
[3] Q: What was the general subject matter of those
[4] conversations?
[5] A: Of what Grace was doing and what my function
[6] was here; informative.
[7] Q: I'm sorry?
[8] A: Informative.
[9] Q: Have you had any communications with any other
[10] legislators, representatives, or senators in states
[11] other than Montana?
[12] A: No.
[13] Q: Have you had any involvement with lobbying for
[14] the passage of an asbestos liability bill in congress or
[15] the State of Montana?
[16] A: No, I have not.
[17] Q: Have you read Mr. Lovick's prior testimony in
[18] other cases?
[19] A: No, I have not.
[20] Q: Have you read any depositions in prior cases?
[21] A: Yes, but I don't recall whose.
[22] Q: After you arrived in Libby as mine
[23] superintendent, up until the time you left Libby — in
[24] 1994?
[25] A: That's correct.

Page 67

[1] Q: — did you have any involvement, at all, with
[2] the asbestos health hazard that existed at that
[3] facility?
[4] MR. GRAHAM: I'm going to object; it's
[5] overly broad.
[6] A: That's what I was going to say.
[7] Q: (By Mr. Lewis) You don't understand the
[8] question?
[9] A: I don't know how to focus in on an answer.
[10] Q: I'll try to give you some help, then, okay.
[11] From the time you were hired as mining
[12] superintendent in 1981 up until the time you left the
[13] Libby facility in 1994, what personal involvement did
[14] you have with management of potential health hazards
[15] associated with asbestos?
[16] A: In the mine, we had a mine planning
[17] department. There was a mine planning engineer who
[18] worked for me. We had drill hole data of the deposit
[19] that told us, in 10 foot increments, what was in that
[20] hole. That told us whether there was vermiculite there.
[21] It told us how much vermiculite was there. It told us
[22] if there was tremolite there. It told us how much
[23] tremolite was there. Identifying areas of the mine that
[24] had either vermiculite and/or tremolite was part of the
[25] mine planning process.

Page 68

[1] The other step was that, in the daily movement
[2] of material to the mill, we had to drill and blast.
[3] Each and every hole that was drilled — and they were
[4] drilled on 10-foot centers — was sampled for the
[5] presence of vermiculite, how much vermiculite, for the
[6] presence of tremolite, and how much tremolite.
[7] In that planning, daily movement was
[8] determined as to what would go to the mill from where.
[9] If there were areas that had high concentrations of
[10] tremolite, then irrespective of how much vermiculite
[11] there was in it, that material was sent to the waste
[12] dump and not sent to the mill. End.
[13] Q: Finished?
[14] A: Finished.
[15] Q: Where was the waste dump?
[16] A: There were — over the period of time that I
[17] was here, there were one, two, three — four different
[18] waste dumps.
[19] Q: Where were they located?
[20] A: On the mine property.
[21] Q: Where, on the mine property?
[22] A: In nonvermiculite-bearing rock areas.
[23] Q: So you took vermiculite-bearing ore and moved
[24] it to areas where there was no vermiculite-bearing rock,
[25] right?

Page 69

[1] A: Only if it did not meet the requirements to
[2] send to the mill.
[3] Q: Are you saying that you took rock that had too
[4] high of levels of tremolite, and put it in a place where
[5] there was no tremolite?
[6] A: No, I didn't say that.
[7] Q: What are you saying?
[8] A: I said we took rock that had high
[9] concentrations of tremolite and put it in areas where
[10] there was no vermiculite, that we would never go back
[11] and mine.
[12] Q: In the mine or in the dump?
[13] A: They're the same thing.
[14] Q: So you had a dump inside — in the face of the
[15] mine?
[16] A: I don't know how to adequately explain to you
[17] the layout. But the operation had a permit of 1200
[18] acres. That 1200 acres was not all minable vermiculite.
[19] There were areas within that 1200 acres that were
[20] identified as nonvermiculite-bearing rock and were used
[21] as waste dumps.
[22] Q: So, you took the tremolite-laden ore that was
[23] not going to be sent to the mill, and you put it in
[24] areas of the permitted areas which would not later have
[25] to be mined, correct?

Page 70

[1] A: That's correct.
[2] Q: Now, my inquiry is about the health hazards of
[3] this asbestos. Did you have any responsibility
[4] concerning dealing with the health hazards of asbestos
[5] exposure at the Libby facility?
[6] A: With respect to the exposures that the people
[7] who worked for me in the mine, yes.
[8] Q: What was your responsibility?
[9] A: To ensure that they performed their jobs in a
[10] manner that did not put them at any exposure risk.
[11] Q: When you were the general manager, what
[12] responsibility did you have?
[13] A: The same thing for the entire operation.
[14] Q: Did you ever talk to Bob Wilkins about the
[15] asbestos-related health hazard at the facility?
[16] A: Not to my knowledge.
[17] Q: Did you ever talk to any of the other men
[18] about the extent of the health hazard at the facility?
[19] A: I don't recall any specific conversation.
[20] Q: So, if anybody informed the men of the health
[21] hazard after you came on board in 1981, it wasn't you,
[22] that you can remember, correct?
[23] A: I don't recall any specific conversation.
[24] Q: Is that because you were not fully aware of
[25] the nature and extent of the health hazard?

Page 71

[1] A: No, that isn't what I said.
[2] Q: I didn't say that's what you said. I asked
[3] you: Is the reason that you never told the men about it
[4] is that you didn't fully understand the nature and
[5] extent —
[6] A: No.
[7] Q: — of the hazard?
[8] A: No.
[9] Q: What is the reasoning?
[10] A: There wasn't any venue that I had that would
[11] present itself on a normal basis to inform of that. We
[12] were there to move material, and to provide material for
[13] the mill.
[14] Q: So there was no venue, no opportunity, for you
[15] to discuss the health hazard with the men; is that what
[16] you're saying?
[17] A: No, I didn't say that.
[18] Q: Well, what do you mean by "venue"? Venue
[19] relates to place.
[20] A: That's correct.
[21] Q: So you mean there was no place where you could
[22] meet with the men and tell them about the health hazard?
[23] A: No, that's not true. There was a number of
[24] places that you can meet with the people and tell them,
[25] if that was what your intent was to do.

Page 72

[1] Q: You just don't recall ever doing it, right?
[2] A: That's correct, specifically.
[3] Q: Okay. Did you understand the dangers inherent
[4] of the tremolite exposure at the Libby facility by the
[5] time you became the general manager in 1988?
[6] A: Yes, I did.
[7] Q: How did you learn that? By your general
[8] training as a mining professional?
[9] A: By my having worked at the operation for eight
[10] years, seven years.
[11] Q: And you were also privy to some written
[12] communications from higher-level management, correct?
[13] A: Specify something.
[14] Q: Well, at some point, was it clear to you that
[15] higher-level management was concerned about the
[16] potential health hazard at the Libby facility?
[17] A: I was aware there were concerns by upper
[18] management about the health concerns, yes.
[19] Q: Did you ever talk to Mr. Lovick about the
[20] health hazards associated with the operation in Libby?
[21] A: I don't recall any specific conversation.
[22] Q: Did you ever talk with Mr. McCaig associated
[23] with the operation in Libby?
[24] A: I had conversations with him, yes.
[25] Q: When did you have those conversations?

Page 73

[1] A: I don't recall anything in specific.
[2] Q: Anything in writing between you and him?
[3] A: No, there is not.
[4] Q: Did you ever see reports from the State of
[5] Montana identifying health hazards at the W.R. Grace
[6] facility in Libby?
[7] A: I don't recall anything specific, no.
[8] Q: Did Mr. McCaig ever provide you with a copy of
[9] the Montana reports indicating that there was a
[10] significant health hazard in Libby?
[11] A: I don't recall him providing me with anything.
[12] Q: Did Mr. Lovick or Mr. McCaig ever tell you
[13] that by 1964 they had already been notified in writing
[14] that they had a significant health problem with asbestos
[15] at the Libby facility?
[16] A: No.
[17] Q: Did they ever tell you that they never
[18] informed their employees of that health hazard that was
[19] identified in 1964?
[20] A: Your question is: Did they ever specifically
[21] tell me that they never told anybody else?
[22] Q: Let me rephrase the question. Did Mr. McCaig
[23] or Mr. Lovick ever tell you that they failed to tell the
[24] employees about the significant health hazard from
[25] asbestos-related disease that was documented in 1964?

Page 74

[1] A: No.
[2] Q: And you've already testified that when you
[3] were hired that they never told you that men were
[4] already sick and dying —
[5] A: That's correct.
[6] Q: — because of this disease; is that correct?
[7] A: That's correct.
[8] Q: And you can't recall them ever telling you
[9] that at any time later, correct?
[10] A: Wait a minute. Telling me what later?
[11] Q: That men were sick and dying.
[12] A: Do I specifically recall either Mr. Lovick or
[13] Mr. McCaig telling me, at some time, that men were sick
[14] and dying? No.
[15] Q: Is it true that W.R. Grace, even after 1964,
[16] attempted to convince the public that there was no
[17] health hazard at the Libby facility?
[18] A: I'm not aware of anything.
[19] Q: Have you ever made any communications to the
[20] local press in Libby or to any Libby civic group, since
[21] you went there in 1981, by which you attempted to
[22] convince whoever you were talking to that there was no
[23] health hazard there?
[24] A: What I have said is that I have always
[25] believed that there was never any health hazard to

Page 75

[1] anyone in the town of Libby, from the operation of that
[2] mine in the past, nor do I believe that there is any
[3] hazard or any risk to anybody living in that town
[4] because of the existence of that operation today.
[5] I have further said that, in the period of
[6] time that I worked there, from 1981 to 1994, that the
[7] men who worked there, including myself, including my
[8] daughter, were not at any substantial risk to exposure
[9] of asbestos.
[10] Q: So you told the public and the press that,
[11] from the time you worked there in 1981 up until the
[12] present day, there was — until the time you left in
[13] '94, there was no health hazard for any of the men that
[14] worked up there; is that correct?
[15] A: I have said that I believe that in the time
[16] frame that I worked there, in 1981 through 1994, that
[17] there was no risk, elevated risk, to the people working
[18] there. Yes.
[19] Q: From 1981 to 1994, as far as you were
[20] concerned, there was no elevated health risk for
[21] asbestos-related disease at the Libby facility, correct?
[22] A: No, I did not say that. I said, I did not
[23] believe that in the time frame, 1981 to 1994, that our
[24] employees were being exposed to any risk that would put
[25] their health — put them at a health risk — an elevated

Page 76

[1] health risk.
[2] Q: So, can we assume that if you didn't believe
[3] that there was any health risk to your employees, there
[4] was no need to tell them about the dangers of asbestos
[5] in the workplace?
[6] A: No.
[7] Q: Well, you said you don't recall ever telling
[8] them, correct?
[9] A: I don't recall any specific conversation, is
[10] what I said.
[11] Q: Do you know when Robert Wilkins was hired by
[12] W.R. Grace?
[13] A: No, I do not.
[14] Q: Do you know if there was any health risk for
[15] workers before you were hired at W.R. Grace?
[16] A: I am fully aware that there were significant
[17] health risks to employees who worked at W.R. Grace — or
[18] worked at the operation in Libby, Montana, prior to
[19] Grace buying the operation in 1963.
[20] Q: But you don't think there was any danger after
[21] 1963?
[22] A: I didn't say that.
[23] Q: Are you fully aware that after 1963 that that
[24] danger continued?
[25] A: I am fully aware that after Grace bought the

Page 77

[1] operation in 1963, and became aware of the significance
[2] of the health risk, that there were issues that Grace
[3] addressed, up to and including, the building of a new
[4] wet mill in 1973.

[5] Q: Have you ever referred to the dust up at the
[6] Libby facility or Libby mill as "nuisance dust"?

[7] A: Have I?

[8] Q: Yes.

[9] A: No.

[10] Q: Have you ever heard anybody refer to it as
[11] nuisance dust?

[12] A: I have heard it referred to as nuisance dust
[13] in testimony given at trial.

[14] Q: Have you ever heard anybody from W.R. Grace
[15] call it nuisance dust outside the context of a trial?

[16] A: No.

[17] Q: Never heard that term before you went to
[18] trial? Never heard that term applied to a W.R. Grace
[19] operation in Libby before you went to trial; is that
[20] true?

[21] A: I don't recall any conversation with anybody,
[22] referring to the issue with respect to the dust at the
[23] operation that was I was managing as nuisance dust. I
[24] had probably heard conversations with people who worked
[25] with me who said that in the '20s — or, the '30s, '40s,

Page 78

[1] and '50s that there was probably knowledge that it was
[2] nuisance dust. But I don't recall any specific
[3] conversation.

[4] Q: Did you think W.R. Grace had a moral
[5] obligation to make a full disclosure to its employees
[6] concerning the dangers inherent in its operations in
[7] Libby?

[8] A: I think Grace, in the time that I was there,
[9] did the correct thing in ensuring that our employees
[10] were provided a safe and healthy workplace.

[11] MR. LEWIS: Move to strike the answer as
[12] completely unresponsive to the question. Ask the
[13] court reporter to read back the question, please.

[14] MR. GRAHAM: Before she does that, if I
[15] could register an objection to the question. The
[16] question is objected to on the basis that it is
[17] totally irrelevant and immaterial to the issues of
[18] the case, as to whether somebody has a moral
[19] obligation to do anything.

[20] And furthermore, it calls for an opinion based
[21] on one's own moral judgment as to what is moral and what
[22] is not a moral obligation. And so, I would object.

[23] You can read it back, now, if you'd like.

[24] (Whereupon, the court reporter read back the
[25] last question.)

Page 79

[1] MR. GRAHAM: And further object as to it
[2] being vague in time and place. Go ahead now.

[3] A: I cannot comment on what Grace did or did not
[4] do prior to when I came. I believe, in the time that I
[5] was there, that we did do the right thing. We did the
[6] morally right thing, to inform our employees of what the
[7] hazards were.

[8] Q: (By Mr. Lewis) How did you do that? How did
[9] you inform them? You said earlier you can't recall ever
[10] talking this over with them.

[11] A: But I also said that in our normal operation,
[12] our employees were told how they were to operate. They
[13] were told what safeguards they were to use. They were
[14] told what the hazards of the exposures were.

[15] Q: But you can't recall ever telling them that
[16] yourself, right?

[17] A: No.

[18] Q: Is that correct?

[19] A: That doesn't say that I didn't do it. I just
[20] don't recall any specific conversation.

[21] Q: And you don't recall any specific written
[22] communication to them; correct?

[23] A: That's correct.

[24] Q: But you believe you would have done that?

[25] A: Absolutely.

Page 80

[1] Q: You claim that there's never been a health
[2] risk to people in Libby, living in the city of Libby
[3] concerning your operations.

[4] A: What I said was, I have always believed that
[5] there was never a hazard to the general population of
[6] Libby because of our operation in the past. I have said
[7] that I do not believe that there is any continuing risk
[8] to anybody in the city of Libby because of the existence
[9] of that mine there today.

[10] Q: You think that mine is perfectly safe today?

[11] A: I think that that mine does not possess any
[12] hazard to anybody in that community today.

[13] Q: What about the materials mined at that mine
[14] and then distributed off the mine premises? Do those —

[15] A: The EPA —

[16] Q: Let me finish the question, sir. Do you
[17] believe there's no risk to anybody in the community for
[18] vermiculite that was sold or given to the public?

[19] A: The EPA is in Libby today taking samples of
[20] those soils in those areas, and they will determine if
[21] there's any risk.

[22] Q: Are they taking those samples independently?

[23] A: Absolutely.

[24] Q: Does W.R. Grace have a representative present
[25] while the samples are being taken?

Page 81

Page 83

[1] A: Yes, Grace does.
[2] Q: Who is that?
[3] A: I don't know.
[4] Q: Do the people of Libby have anybody there
[5] protecting their interests?
[6] A: I don't have any idea.
[7] Q: But every sample that is taken, is taken in
[8] the presence of a Grace representative?
[9] A: Every sample that is probably taken, Grace is
[10] provided a split of those samples. Grace has a
[11] representative there to understand where those samples
[12] came from.
[13] Q: When you came to Libby in 1981, what did you
[14] do to fully inform yourself of the hazards related to
[15] asbestos exposure in the work environment?
[16] A: I don't know that I did anything specific.
[17] Q: Who was responsible for handling occupational
[18] disease claims at Grace when you came to work there?
[19] A: I would presume, Mr. Lovick.
[20] Q: Were you routinely provided documentation
[21] relating to the health hazards of asbestos exposure at
[22] the Grace facility in Libby during your tenure?
[23] A: I don't understand the question.
[24] MR. LEWIS: Can you read back the
[25] question.

Page 82

Page 84

[1] A: I understand what you said. But I don't
[2] understand the question.
[3] Q: (By Mr. Lewis) Okay, well you never let me
[4] finish the question, for one thing, sir. You're going
[5] to have to let me finish the question.
[6] A: Then you need to have shorter pauses.
[7] Q: I didn't pause, you interrupted me.
[8] MR. LEWIS: Now, we'll take a break here
[9] because I'm losing my temper.
[10] MR. GRAHAM: That's fine.
[11] (Whereupon, the deposition was in recess at
[12] 11:42 a.m., and subsequently reconvened at 11:42 a.m.,
[13] and the following proceedings were had and entered of
[14] record:)
[15] Q: (By Mr. Lewis) Let the record reflect that we
[16] took a little break. While I said I'm losing my temper,
[17] nobody raised their voice and nobody's angry in that
[18] sense, although there is a certain frustration level.
[19] Q: (By Mr. Lewis) Sir, you're going to have to
[20] wait until I finish my questions.
[21] A: I understand.
[22] Q: I'll try to keep them shorter.
[23] MR. LEWIS: Please read back my last
[24] partial question for the witness.
[25] (Whereupon, the court reporter read back the

[1] question beginning on page 81, line 23.)
[2] Q: (By Mr. Lewis) Were you ever provided any
[3] written documentation concerning the asbestos-related
[4] health hazard at the Libby facility while you worked
[5] there?
[6] A: I knew what the exposure limits, with respect
[7] to the federal regulations, were in fibers per cc. I
[8] knew what our testing showed our exposures to our
[9] employees to be, relative to those federal regulations.
[10] Q: Okay. Move to strike the answer because it's
[11] not responsive to the question.
[12] What, if any, documents were you provided,
[13] sir, concerning asbestos-related disease at the Libby
[14] facility while you worked there, either as
[15] superintendent of the mine or general manager?
[16] A: I don't recall any specific document.
[17] Q: Do you know who Jack Walter was or is?
[18] A: Yes, I do.
[19] Q: Who is he?
[20] A: He was Mr. McCaig's supervisor, direct report.
[21] And he became my direct supervisor when Mr. McCaig left.
[22] Q: Did you ever discuss asbestos-related disease
[23] at the Libby facility with Mr. Walter?
[24] A: I don't recall any specific discussion.
[25] Q: Did you ever discuss that subject with

[1] Mr. McCaig?
[2] A: Oh, I'm sure, on numerous occasions, but I
[3] don't recall any specific occasion.
[4] Q: Did Mr. McCaig ever inform you that there were
[5] claims being made that men were being diseased and
[6] killed as a result of the asbestos?
[7] A: I don't know that Mr. McCaig ever specifically
[8] told me. Was I aware that people were being sick, had
[9] gotten sick from it? Yes.
[10] Q: Were you ever informed that management-level
[11] personnel had already been documented as having
[12] substantial lung disease as a result of the exposure —
[13] A: I don't know any —
[14] MR. GRAHAM: Wait, wait, wait.
[15] MR. LEWIS: I'll start over with the
[16] question.
[17] Q: (By Mr. Lewis) Were you informed, at the time
[18] you were employed, that there was already documentation
[19] by Grace that management-level personnel already had
[20] lung disease as a result of asbestos exposure in Libby?
[21] A: No.
[22] Q: I'm going to hand you a document.
[23] MR. LEWIS: We probably need to make a
[24] copy of this.
[25] MR. GRAHAM: We can refer to it as G

Page 85

[1] number.
[2] MR. LEWIS: This is Plaintiff's Exhibit
[3] YY from the trial in the Dan Schnetter case. For
[4] purposes of identification, the date is
[5] December 4, 1978.
[6] A: What's your question?
[7] Q: (By Mr. Lewis) Have you ever seen that
[8] document before today?
[9] A: No.
[10] Q: Did Mr. McCaig tell you that it was already
[11] documented that he had lung disease as a result of
[12] asbestos exposure in the Libby facility?
[13] A: No.
[14] Q: Did Mr. Melcher tell you that, in 1968, he was
[15] diagnosed with lung disease?
[16] A: No.
[17] Q: Did Mr. Moreau tell you that in 1974 he was
[18] diagnosed with lung disease?
[19] A: No.
[20] Q: Did Mr. Lovick tell you that in 1968 he was
[21] diagnosed with lung disease?
[22] A: No.
[23] Q: Did anybody tell you that Tom De Shazer in
[24] 1964 was diagnosed with severe lung disease associated
[25] with the Libby operations?

Page 86

[1] A: Nobody told me that Thomas De Shazer was
[2] diagnosed with severe lung disease.
[3] Q: How about Dale Thompson, did anybody tell you
[4] he had lung disease —
[5] A: No.
[6] Q: — diagnosed in 1970?
[7] A: No.
[8] Q: Don't you think that Mr. McCaig or somebody
[9] should have told you about this when you were hired?
[10] A: I don't know what Mr. McCaig should have or
[11] shouldn't have told me.
[12] Q: Well, what do you think? Do you think it
[13] would be valuable information for you, as a new
[14] employee, to know that many management-level people at
[15] the Libby facility were already suffering from lung
[16] disease caused by asbestos at the facility?
[17] MR. GRAHAM: I would object to the form
[18] of the question on the basis that the document
[19] from which you're examining doesn't state that.
[20] Go ahead and answer the question.
[21] A: Restate the question.
[22] Q: (By Mr. Lewis) Well, I'll just ask you this:
[23] Don't you think that somebody should have told you about
[24] the contents of this document here, dated December 4,
[25] 1978?

Page 87

[1] A: I don't know that it would have had any
[2] relevance on any decision that I would have made.
[3] Q: Why or why not?
[4] A: Because that's history. And I was working
[5] there at that point in time, with those conditions.
[6] MR. GRAHAM: By the way, just for the
[7] record, so that we don't have to worry about it,
[8] this document is G-61.1. So it's within the
[9] already-marked exhibits in the case.
[10] Q: (By Mr. Lewis) If you were a worker hiring on
[11] at that facility, do you think you would have a right to
[12] know about the contents of this document of December 4,
[13] 1978?
[14] MR. GRAHAM: I'd object on the basis of
[15] relevancy, and calls for speculation, and calls
[16] for legal conclusions.
[17] Go ahead and answer it, if you can.
[18] A: I don't know what my rights would have been.
[19] Q: (By Mr. Lewis) Well, what's wrong with full
[20] disclosure? Don't you think that employees should be
[21] told of all the health hazards that exist in an ongoing
[22] operation like that?
[23] MR. GRAHAM: Same objection.
[24] A: Absolutely.
[25] Q: (By Mr. Lewis) Would this be relevant

Page 88

[1] information for somebody who was working there or was
[2] about to go to work there?
[3] A: It might be relevant information, relative to
[4] history. It would not be relevant information
[5] consistent with what was going on at that point in time.
[6] Q: So, is it your position that an employee
[7] hiring on when you hired on in 1981, did not have the
[8] need to know this information?
[9] A: I didn't say that.
[10] Q: Well, do you think —
[11] A: I said —
[12] Q: Okay, I'll rephrase the question. Do you feel
[13] that an employee hiring on in September of 1981 would
[14] have no need to know the information contained in this
[15] December 4, 1978 document?
[16] MR. GRAHAM: Same objection.
[17] A: What that employee hiring on in 1981 would
[18] need to know were what the conditions were that he would
[19] be going to be working in at that moment in time.
[20] Q: (By Mr. Lewis) Would he have a right to know
[21] that people had already been documented —
[22] management-level people, as well — had been documented
[23] as being diseased before he was hired on?
[24] MR. GRAHAM: Same objection.
[25] A: As long as he was told that what he was going

Page 89

Page 91

[1] into and working in, that he could consider himself as
[2] being safe.

[3] Q: (By Mr. Lewis) Do you think the people that
[4] were already employed at the time this document was
[5] produced would have a right to know the contents of this
[6] document?

[7] MR. GRAHAM: Same objection.

[8] MR. LEWIS: You can have a continuing
[9] objection.

[10] A: I can only respond to the time frame that I
[11] was working there, and that those people who worked
[12] there in the time frame that I did, needed to know that
[13] their health was not at risk and that if they had a
[14] right to know this, they needed to know that it was
[15] historical, that their health and their working there
[16] and the environment that they were working in, was safe.

[17] Q: So they had no need to know the contents of
[18] this document; is that your testimony?

[19] A: I didn't say that. I said --

[20] Q: I'm asking you directly, again --

[21] A: I wouldn't do you, you don't do me.

[22] Q: I'm asking you a question. I haven't got an
[23] answer yet.

[24] MR. GRAHAM: No, but the problem is that
[25] he was trying to go on with his answer. And I

[1] with lung disease, as of December 4, 1978?

[2] MR. GRAHAM: I'll object to that on the
[3] basis that it calls for a legal conclusion, and on
[4] the basis that it misstates what the document
[5] says.

[6] Go ahead and answer to the extent you can.

[7] A: What those employees hiring in September 7 of
[8] 1981 or thereafter needed to know is: Could they come to
[9] work there at any risk to their health as a result of
[10] the exposures to asbestos. They had that right, Grace
[11] had that obligation; they were provided with that.

[12] The fact that people in the past had suffered
[13] from any form of disease, specifically X number of
[14] management, was not relative to the information that
[15] they needed to be given at that time. They needed to be
[16] educated as to what the issues were with asbestos. They
[17] needed to be told the risks and the hazards associated
[18] with asbestos. And they needed to be assured that they
[19] could work in a safe environment.

[20] Q: (By Mr. Lewis) So they needed to be told of
[21] the hazards related to asbestos; you just said that?

[22] A: Absolutely.

[23] Q: Well, is one of the hazards, related to
[24] asbestos, lung disease?

[25] A: Absolutely.

Page 90

Page 92

[1] understand that you disagreed with whether he was
[2] answering, properly, the question, but at least
[3] he's entitled to finish his answer before you
[4] direct him back with a new question. And that's,
[5] I think, just fair from both sides of the table.

[6] A: Please ask the question again.

[7] Q: (By Mr. Lewis) I asked you a question, yes or
[8] no, would new employees being hired after the date of
[9] this document, December 4, 1978, have the need to know
[10] the contents of this document?

[11] MR. GRAHAM: Objection; calls for
[12] speculation.

[13] A: It cannot be a yes or no answer. It has to be
[14] put in the context of what was the environment that they
[15] were going to be working in.

[16] Q: (By Mr. Lewis) But who gets to decide what
[17] the environment was? That's the problem here, sir. Is
[18] it just you that decides what's a safe environment?

[19] A: It is what we were doing relative to what the
[20] rules, the regulations, and the exposures that the
[21] people were being put in.

[22] Q: So there's nothing wrong with not telling the
[23] men being hired that 15 management-level personnel,
[24] including the general manager of the entire facility,
[25] had already been diagnosed with lung-related disease --

[1] Q: And if you have substantial evidence that
[2] management-level people already have lung disease,
[3] diagnosed between 1959 and 1978, isn't that relevant
[4] information, sir?

[5] A: The fact that there were X number of
[6] management people is not relevant. The fact that people
[7] had the issue, is relevant.

[8] Q: Well, these management people are employees of
[9] Grace, right?

[10] A: That's correct.

[11] Q: They all worked at the Grace facility in
[12] Libby, correct?

[13] A: That's correct.

[14] Q: The highest level official of Grace in Libby
[15] was Mr. McCaig, at the time, right?

[16] A: That's correct.

[17] Q: And Mr. Lovick, he was responsible for
[18] occupational disease matters, correct?

[19] A: Correct.

[20] Q: Are you aware, sir, that Grace documents
[21] indicate that Grace management wanted to keep the level
[22] of asbestos disease in Libby confidential?

[23] A: No.

[24] Q: Have you ever seen such documents indicating
[25] that Grace management intended to keep the asbestos

Page 93

[1] disease problem confidential?
[2] A: I worked there from 1981 to 1994, and we kept
[3] none of that confidential.
[4] MR. GRAHAM: The question is, whether
[5] you've seen anything that indicates that they did.
[6] A: No.
[7] Q: (By Mr. Lewis) Did you know Jim Gidley?
[8] A: No.
[9] Q: Did you ever hear about Jim Gidley?
[10] A: No.
[11] Q: You were employed by W.R. Grace in January
[12] 1983, correct?
[13] A: That's correct.
[14] Q: Do you remember, I asked you if there was a
[15] moral obligation to your employees to treat them fairly,
[16] something to that effect?
[17] A: Yes.
[18] Q: You didn't recall anybody — well, I forgot.
[19] What was your answer? Did you feel you have a moral
[20] obligation to your employees to treat them fairly
[21] concerning this asbestos-related disease?
[22] MR. GRAHAM: Let me object on the basis
[23] that it's totally irrelevant. Go ahead and
[24] answer, if you can.
[25] A: I have a moral obligation to myself. I have a

Page 94

[1] moral obligation to anybody who works for me to ensure
[2] that they can work in a safe and healthy workplace.
[3] Q: (By Mr. Lewis) And if the place is not a safe
[4] and healthy workplace, and the person becomes sick, does
[5] Grace have an obligation to treat the person fairly?
[6] A: Yes.
[7] Q: Did you review all of the death certificates
[8] that were part of the exhibits in this case?
[9] A: No.
[10] Q: Did you know that Dale Thompson ultimately
[11] died of asbestos-related disease?
[12] A: I had heard that, yes.
[13] Q: Who received the most exposure to asbestos
[14] fibers, management or the line workers?
[15] A: I would presume that if there was exposure,
[16] that a person who was in it the longer, during the
[17] course of the day, would be the person that would get
[18] the most exposures. In this case, it would be the
[19] hourly worker versus the management person.
[20] Q: How many years did Mr. Lovick spend on the
[21] hill working?
[22] A: I have no idea.
[23] Q: Most the time you were there, he was in the
[24] office, right?
[25] A: All of the time I was there.

Page 95

[1] Q: Downtown, in Libby?
[2] A: Yes.
[3] Q: And he had asbestos-related disease, correct?
[4] A: You told me that, yes.
[5] Q: Well, that's what the company document,
[6] provided by Mr. Oliverio said in 1978, correct?
[7] MR. GRAHAM: I would object to the
[8] continued characterization of Exhibit G-61.1 as
[9] saying anything about asbestos. I don't think the
[10] term asbestos is even used in that document. And
[11] I would object to the form of the question on the
[12] basis that it assumes facts not in evidence by
[13] that document.
[14] MR. LEWIS: Well, counsel you know, very
[15] well, what Mr. Lovick testified to about this
[16] document. You know, very well, that it's
[17] reporting results related to asbestos-related lung
[18] disease.
[19] MR. GRAHAM: No, I don't.
[20] MR. LEWIS: You're playing games now,
[21] counsel.
[22] MR. GRAHAM: I'm not, because I know
[23] people on there that don't have any
[24] asbestos-related disease, and never did.
[25] MR. LEWIS: Well, that's not what

Page 96

[1] Mr. Lovick said in his trial testimony.
[2] MR. GRAHAM: Point it to me.
[3] MR. LEWIS: Well, I can find it.
[4] Q: (By Mr. Lewis) So you had no involvement, at
[5] all, with filing or processing occupational disease
[6] claims while you were at Libby; is that correct?
[7] A: No. Once I became general manager, the filing
[8] of occupational claims went through people who worked
[9] for me and I was aware of that.
[10] Q: Did you actually look at the occupational
[11] disease claims, personally?
[12] A: I'm sure I did.
[13] Q: Were there any occupational disease claims
[14] relating to asbestos-related —
[15] A: I don't recall.
[16] Q: — lung disease?
[17] A: I don't recall any.
[18] MR. GRAHAM: You have to wait, Al.
[19] A: I don't recall any.
[20] Q: (By Mr. Lewis) Was Mr. Eschenbach stationed
[21] in Libby while you were there?
[22] A: No.
[23] Q: What was his involvement with the
[24] asbestos-related disease problem, if you know?
[25] A: I don't know.

Page 97

[1] Q: Do you know who Mike Ray was?
[2] A: Yes.
[3] Q: Who was he?
[4] A: He was the plan engineer.
[5] Q: Do you know where he is now?
[6] A: Yes.
[7] Q: Where?
[8] A: Libby, Montana.
[9] Q: Have you talked to him about the
[10] asbestos-related disease problems since you came back to
[11] Libby in November?
[12] A: Yes.
[13] Q: In what sense?
[14] A: I've known the man for 20 years. He worked
[15] for me, and in a matter of conversation.
[16] Q: When did this conversation occur; more than
[17] once?
[18] A: Certainly.
[19] Q: Have you asked him to assist you on this
[20] problem since you came back?
[21] A: No.
[22] Q: What does he do now?
[23] A: He has his own business.
[24] Q: What is that business?
[25] A: Ray Engineering.

Page 98

[1] Q: Does he contract with W.R. Grace?
[2] A: He has.
[3] Q: Is he under contract now?
[4] A: No.
[5] Q: When did he last contract with W.R. Grace?
[6] A: I don't know that he ever — I don't
[7] remember — as a matter of fact, I don't know — yeah,
[8] he did. He contracted with W.R. Grace with respect to
[9] some remediation of some soils at a piece of property
[10] that we had in town, some contaminated soils with oil.
[11] Q: Did you read his February 6, 1984 letter
[12] concerning dust exposure, which is part of Exhibit G-68?
[13] A: I don't know. Was I copied on it?
[14] Q: I mean, did you read it in preparation for
[15] this deposition?
[16] A: No, I have not.
[17] Q: Whoever it's to is crossed off. But in the
[18] first letter, it says, "Bill, just a note on my recent
[19] observation on how we are doing on our campaign to
[20] educate people on the dust problem." Do you see that?
[21] A: Mm-hum.
[22] Q: Do you know anybody besides Bill McCaig that
[23] that could with have been addressed to?
[24] A: Bill Melcher.
[25] Q: Bill Melcher would have worked with Mr. Ray on

Page 99

[1] it from time to time?
[2] A: Could have.
[3] Q: You don't have any idea who it is that he's
[4] referring to in this document, do you?
[5] A: Specifically, where?
[6] Q: I mean, the identity of the person he's
[7] referring to in this document is blocked out. Do you
[8] see that?
[9] A: Yes.
[10] Q: You don't know who that person would be, I
[11] take it?
[12] A: I haven't read the memo.
[13] Q: Why don't you read it to yourself. I'll just
[14] ask you a couple questions about it.
[15] A: No, I don't have any idea who he's talking
[16] about.
[17] Q: You see, one of the individual he's referred
[18] to has never been properly informed of Grace's, quote,
[19] renewed attitude to eliminating dust exposures, closed
[20] quote.
[21] A: He says that, yes.
[22] Q: And that was as of 1984, correct?
[23] A: Correct.
[24] Q: And you were employed in 1984?
[25] A: Yes, I was.

Page 100

[1] Q: Do you know of any person under your
[2] supervision, from 1981 to 1994, who was ultimately
[3] diagnosed with asbestos-related lung disease?
[4] A: No, I do not.
[5] Q: Did Mr. Wilkins ever work for you?
[6] A: Directly, no.
[7] Q: Well, when you were general manager —
[8] A: Bob Wilkins wasn't there anymore, I don't
[9] think.
[10] Q: And he never worked in the mine?
[11] A: No.
[12] Q: When Grace marks a document personal and
[13] confidential, what does that mean?
[14] A: That it is only for the person who it is being
[15] sent to.
[16] Q: And that it is not to be disseminated to any
[17] third party or to lower-level employees, correct?
[18] A: I don't know — you know, I'm sure it's a
[19] case-by-case issue.
[20] Q: Did W.R. Grace maintain, at the Libby
[21] facility, a file on asbestos-related disease while you
[22] were there?
[23] A: Be more specific as to what kind of file.
[24] Q: Did W.R. Grace maintain a specific file
[25] concerning health hazards related to asbestos

Page 101

[1] exposure —
[2] A: I'm not aware of any.
[3] MR. GRAHAM: Wait.
[4] THE WITNESS: He asked the question.
[5] MR. GRAHAM: He wasn't quite finished
[6] yet.
[7] Q: (By Mr. Lewis) Did you work with Earl Lovick
[8] after he retired from W.R. Grace?
[9] A: No.
[10] Q: Notice I said "work with"?
[11] A: I understand.
[12] Q: Did you know he was a consultant for
[13] W.R. Grace after he retired?
[14] A: Yes.
[15] Q: So you had no personal involvement with him
[16] after that?
[17] A: No.
[18] Q: You knew he was a lobbyist for W.R. Grace?
[19] A: Earl was a lobbyist for W.R. Grace over a
[20] number of years, over a number of different projects.
[21] Q: Would it have been the right thing for
[22] W.R. Grace to do, to make a full disclosure to its
[23] employees concerning the health hazards of asbestos in
[24] the workplace?
[25] MR. GRAHAM: I object to the form of the

Page 102

[1] question on the basis it calls for expert opinion,
[2] it calls for a legal conclusion, and it's
[3] irrelevant. Go ahead.
[4] A: And I don't know how to answer the question.
[5] Q: (By Mr. Lewis) Well, you function as the
[6] corporate representative for W.R. Grace in at least
[7] three trials?
[8] A: Yes.
[9] Q: You were the individual there on behalf of
[10] Grace, right?
[11] A: That's correct.
[12] Q: Sat there in the presence of the jury as the
[13] representative of W.R. Grace, correct?
[14] A: That's correct.
[15] Q: And you are a spokesman for W.R. Grace right
[16] now, right?
[17] A: Correct.
[18] Q: And the specific spokesperson relating to the
[19] asbestos problem in Libby, correct?
[20] A: That's correct.
[21] Q: I ask you, again: Would it have been the right
[22] thing to do for W.R. Grace to make a full disclosure to
[23] its employees of all information relating to asbestos
[24] hazards in the workplace as that information became
[25] known?

Page 103

[1] MR. GRAHAM: Same objection.
[2] A: And I don't know what Grace did or didn't do,
[3] before I came in 1981.
[4] Q: (By Mr. Lewis) I didn't ask you that.
[5] A: Then I can't answer as to what they should
[6] have done.
[7] Q: I'm just asking you: As Grace's spokesperson,
[8] would it have been the right thing to do for Grace to
[9] make a full disclosure as asbestos-related disease
[10] problems became known to management of W.R. Grace?
[11] MR. GRAHAM: Same objection.
[12] A: After Grace bought the operation that 1963,
[13] they continuously worked to try and find ways to
[14] minimize the exposure to the employees that were there.
[15] In doing that, there were various things that
[16] they did with the employees, whether it was the
[17] respirator, whether it was chest X ray, whether it was
[18] the lung function test, whether it was the no smoking
[19] ban, whether it was the educational program, whether it
[20] was the coverall program.
[21] Grace worked with the employees to make sure
[22] that they understood what the risks were and to prevent
[23] any potential harm.
[24] Q: (By Mr. Lewis) Are you finished?
[25] A: Yes.

Page 104

[1] Q: You just made yourself a witness back to 1963,
[2] right?
[3] A: No.
[4] Q: You know all about what happened between 1963
[5] and 1981?
[6] A: What I read —
[7] Q: Do you know what happened between 1963 and
[8] 1981?
[9] A: No, I do not.
[10] Q: Okay. Did you know that Earl Lovick didn't
[11] wear a respirator when he was at the mill?
[12] A: No, I did not.
[13] Q: Did you know he testified to that under oath?
[14] A: No, I did not.
[15] Q: Did you know that he testified that W.R. Grace
[16] knew of the problems with the employees' lung disease
[17] caused by asbestos exposure —
[18] A: No.
[19] Q: — by the early '60s?
[20] A: No.
[21] Q: Did you know that he testified under oath that
[22] the Montana State Board of Health advised Grace that
[23] asbestos was a toxic material and that they had it in
[24] the workplace as early as 1956?
[25] A: I may have heard that in testimony, as a

Page 105

Page 107

[1] deposition read, but I don't specifically recall having
[2] heard it.
[3] Q: Did you understand that referring to asbestos
[4] as "toxic" means that it is harmful to humans?
[5] A: Do I understand that referring to asbestos is
[6] toxic to humans? Yes.
[7] Q: Do you know that Mr. Lovick testified under
[8] oath in the Schnetter trial that, although he was aware
[9] that asbestos was toxic to humans as early as 1956, he
[10] did nothing to bring that awareness of the hazard to the
[11] attention of the workers and their families?
[12] A: I'm not aware of any of that testimony.
[13] Q: Do you believe that he should have told the
[14] men as soon as he learned that it was dangerous?
[15] MR. GRAHAM: Same objection as before.
[16] Q: (By Mr. Lewis) Yes or no?
[17] A: I don't know what Mr. Lovick should or should
[18] not have told people.
[19] Q: Well, you talk about back to 1963 and the
[20] things that Grace did. Did Grace ever tell the men, as
[21] far as you know, about the hazards of asbestos, prior to
[22] 1981? If you know.
[23] A: As far as I know, there is an educational
[24] program that was started in 1978 that addressed those
[25] issues.

Page 106

Page 108

[1] Q: Concerning the hazards of smoking and
[2] asbestos?
[3] A: Concerning the exposure to asbestos, as well
[4] as its relationship to smoking.
[5] Q: In 1978?
[6] A: I don't recall the specific time frame.
[7] Q: But before 1978, no disclosure was made,
[8] correct?
[9] A: I don't know.
[10] Q: Well, if Mr. Lovick said there was no
[11] disclosure made before 1978, you wouldn't argue with
[12] that, would you?
[13] MR. GRAHAM: I would object. This is
[14] argumentative at this point in time. Go ahead and
[15] answer.
[16] A: I don't know how to answer the questions. I
[17] don't know what Mr. Lovick has testified to or hasn't
[18] testified to.
[19] Q: (By Mr. Lewis) Did W.R. Grace do anything to
[20] keep the asbestos problem in Libby under wraps and away
[21] from the public or the employees; yes or no?
[22] A: I have no idea.
[23] Q: Don't know, one way or the other?
[24] A: One way or the other.
[25] Q: I'm going to hand you what has been marked as

[1] G-40.1. Go ahead and read that.
[2] MR. LEWIS: Let's take a break while he
[3] reads that. Do you want to break for lunch?
[4] (Discussion held off the record.)
[5] (Whereupon, the deposition was in recess at
[6] 12:26 p.m., and subsequently reconvened at 12:27 p.m.,
[7] and the following proceedings were had and entered of
[8] record.)
[9] Q: (By Mr. Lewis) Did you have an opportunity to
[10] read G-40.1?
[11] A: Yes, I did.
[12] Q: Do you see that Mr. Schnetter, on that
[13] personal and confidential letter dated March 3, 1969, is
[14] concerned about significant financial liability
[15] associated with the asbestos dust problem in Libby?
[16] A: I see that.
[17] Q: Were you ever provided a copy of that personal
[18] and confidential letter?
[19] A: No, I was not.
[20] Q: First time you saw it was today?
[21] A: Yes.
[22] Q: And that indicates it did not go to any of the
[23] men that were hourly employees, is that correct?
[24] A: That's correct.
[25] Q: All of the people listed are management-level

[1] employees?
[2] A: I don't know what John F. Murphy's job was. I
[3] don't know what R.T. Sterret's job was.
[4] Q: But the ones you recognize are
[5] management-level employees?
[6] A: That's correct.
[7] Q: Do you see where Mr. Schnetter talks about his
[8] concern over the moral obligation to his employees or to
[9] Grace's employees?
[10] A: Yes.
[11] Q: Do you know if this document was ever
[12] disclosed to the workers by W.R. Grace?
[13] A: No, I don't.
[14] Q: When you were at W.R. Grace, did you ship
[15] vermiculite ore in bulk to other places in the United
[16] States?
[17] A: We shipped vermiculite concentrate to other
[18] places in the United States, yes.
[19] Q: What is vermiculite concentrate?
[20] A: It is the vermiculite that has been removed
[21] from the rock in the mine that bears vermiculite.
[22] Q: It's unexpanded vermiculite, basically, right?
[23] A: That's correct.
[24] Q: With as many of the contaminants out of it as
[25] possible?

Page 109

[1] A: The concentration of vermiculite — the
[2] vermiculite going to the mill starts at about 20 to
[3] 25 percent vermiculite. The concentrate that is shipped
[4] is probably about 99-plus percent vermiculite.

[5] Q: And in Libby, the tremolite was in the
[6] vermiculite, right?

[7] A: The tremolite was in the ore that was shipped
[8] to the mill, yes.

[9] Q: And it was not possible to get the tremolite
[10] out of the vermiculite during the concentration process,
[11] right?

[12] A: That's not true. It was possible to remove
[13] the vast majority of it. It was not possible to get
[14] 100 percent removal.

[15] Q: What percentage of the vermiculite,
[16] concentrated vermiculite, was tremolite asbestos, if you
[17] know?

[18] A: I can only speak to the period of time that I
[19] worked there, from '81 through '90, and it was less than
[20] 1 percent.

[21] Q: What percentage of unconcentrated vermiculite
[22] ore was tremolite asbestos?

[23] A: That's not possible to give an answer, a
[24] quantitative answer, to that because it varied
[25] throughout the ore body.

Page 110

[1] Q: Mr. Lovick testified under oath that he
[2] thought it averaged around 3 percent. Does that sound
[3] right?

[4] A: I don't know where he would have gotten that
[5] number, and I don't know how I would put a number on it.
[6] It varied throughout the ore body.

[7] Q: Do you recall the parameters of this variance?
[8] Did it go from 2 to 5 percent, 3 to 9 percent or —

[9] A: I could go to the mine today and show you
[10] 100 percent tremolite. I can go to the mine today and
[11] find you zero percent tremolite. It varied all the way
[12] from there.

[13] Q: In any event, the vermiculite, the
[14] concentrate, had less than one percent tremolite?

[15] A: In the time frame that I worked there, the
[16] vermiculite concentrate had less than 1 percent, yes.

[17] Q: But it was impossible to get all of the
[18] tremolite out of the vermiculite, correct?

[19] A: That's correct.

[20] Q: And there would be a higher percentage of
[21] tremolite in the concentrated vermiculite, than would be
[22] in the average ore sample, right?

[23] A: No, just the opposite.

[24] Q: Well, now, if you took vermiculite, all right,
[25] from the ore, you yielded what percentage vermiculite

Page 111

[1] from your ore?

[2] A: 99 percent.

[3] Q: No, but from the ore, what percentage of that
[4] was vermiculite, 20 percent?

[5] A: The feed grade to the mill averaged between 20
[6] and 25 percent vermiculite.

[7] Q: So, if the ore averaged around 3 percent, as
[8] Mr. Lovick suggested, and the concentrated vermiculite
[9] averaged a little over 1 percent — or a little less
[10] than 1 percent, would there be more or less tremolite
[11] per ton in vermiculite concentrate than in the ore?

[12] A: By weight, over 98 percent of the tremolite
[13] would have been removed.

[14] Q: How did you ship that concentrated vermiculite
[15] out of Libby?

[16] A: By rail cars.

[17] Q: What kind of rail cars, if you know?

[18] A: Hopper, closed hopper.

[19] Q: Closed hoppers?

[20] A: Yes.

[21] Q: What is the consistency of vermiculite
[22] concentrate?

[23] A: I don't understand the question.

[24] Q: I mean, how big are the pieces?

[25] A: They are dependent upon the size fraction of

Page 112

[1] the order. If varies from quarter inch to 65 mesh.

[2] Q: So they're pretty small pieces?

[3] A: Generally, yes.

[4] Q: How are they loaded onto the trains?

[5] A: Through a conveyor belt.

[6] Q: What railroad did you ordinarily ship with?

[7] A: Burlington Northern.

[8] Q: When you were there, was that the only
[9] railroad that you shipped with?

[10] A: Yes.

[11] Q: What warning did you give the workers
[12] concerning the hazards of vermiculite concentrate, if
[13] any?

[14] A: The concentrate? There were placards put on
[15] every car stating that there was asbestos-containing
[16] material in that car.

[17] Q: And that was while you were there?

[18] A: Yes.

[19] Q: When did that start?

[20] A: I don't recall.

[21] Q: Where were the placards placed?

[22] A: On the sides of the car.

[23] Q: And who put those on there?

[24] A: The person filling the car.

[25] Q: The person who loaded it?

Page 113

[1] A: Yes.
[2] Q: What would be his job title or her job title?
[3] A: I don't recall. Probably, loader.
[4] Q: Where did the loading occur?
[5] A: Along the Kootenai River.
[6] Q: How far from Libby?
[7] A: Five miles.
[8] Q: So at the base of the vermiculite mountain,
[9] sort of?
[10] A: At the base of the road that comes down from
[11] the operation, yes.
[12] Q: Do they call that Vermiculite Mountain?
[13] A: Only the people who don't work there.
[14] Q: Well, there's more people in Libby who don't
[15] work there than do work there?
[16] A: That's correct.
[17] Q: Thank goodness. But you've heard it called
[18] Vermiculite Mountain?
[19] A: Certainly.
[20] Q: So the loading was done in BN cars, along the
[21] Kootenai River, at the bottom of the road that went up
[22] Vermiculite Mountain to the mill?
[23] A: That's correct.
[24] Q: When did they start using those placards?
[25] A: I don't recall.

Page 114

[1] Q: What did the placards actually say, if you
[2] recall?
[3] A: I don't recall, specifically.
[4] Q: What kind of conveyor was used to load the
[5] trains?
[6] A: A rubber conveyor.
[7] Q: How did the vermiculite, the concentrate, get
[8] down the mountain to the area where the conveyor was
[9] used to load it?
[10] A: From the mill, it was conveyed in a 2-ton — I
[11] think, 2-ton skip car to a storage facility, 1700 to
[12] 2000 feet lower, where it was transferred into haul
[13] trucks, where it was transported over the road to the
[14] screening plant.
[15] Q: Where was the screening plant?
[16] A: On the Kootenai River.
[17] Q: So you screened the concentrate at the
[18] screening plant and then it was separated into different
[19] sizes?
[20] A: That's correct.
[21] Q: Where was it put then?
[22] A: In various storage facilities.
[23] Q: Along the Kootenai?
[24] A: Yes.
[25] Q: What kind of storage facilities?

Page 115

[1] A: Both open as well as closed silo.
[2] Q: And then the conveyor would be used to go into
[3] those storage containers?
[4] A: Yes. There was access to those storage
[5] containers by conveyors which transported the material
[6] to the rail cars.
[7] Q: Was it always transported in covered cars? If
[8] you know.
[9] A: In my time frame, yes.
[10] Q: Was there leakage along the railroad track?
[11] A: There is leakage out of most bottom dump — in
[12] my experience, most bottom dump rail cars can have some
[13] leakage, not necessarily all, not necessarily all the
[14] time, not necessarily to much extent.
[15] Q: Where did those rail cars go after they left
[16] the screening facility?
[17] A: To various expanding plants around the United
[18] States.
[19] Q: Did Grace have some expanding plants?
[20] A: Yes.
[21] Q: How many, if you know?
[22] A: I don't recall.
[23] Q: Did they have some privately-owned expanding
[24] plants under contract or lease?
[25] A: I have — I have heard that there were what

Page 116

[1] were called "licensees," yes.
[2] Q: Now, what was the path of the rail cars when
[3] they left the screening facility? Did they go back
[4] towards Libby?
[5] A: As far as I know, virtually every car went to
[6] Libby.
[7] Q: And were there switching operations in Libby?
[8] A: Yes, there were.
[9] Q: Do you agree with me that a significant number
[10] of those train cars leaked?
[11] A: I don't know what "significant" would mean.
[12] Q: Well, you volunteered that your experience
[13] leads you to believe that when you have a bottom
[14] unloading rail car they will leak, correct?
[15] A: I said they can leak and that some leak more
[16] than others, but that's with whatever material you put
[17] in there.
[18] Q: Now, when you say you had vermiculite
[19] concentrate, what was the smallest size of vermiculite
[20] concentrate?
[21] A: R No. 4, which probably would have been
[22] 100 percent to 65 mesh, plus-65 mesh, whatever.
[23] Q: So, for a nonmining engineer like me who
[24] doesn't understand that, what would be the diameter, the
[25] average diameter of a piece of vermiculite concentrate

Page 117

[1] that was that size?
[2] A: 1/65 of an inch.
[3] Q: 1/65 of an inch?
[4] A: 65 mesh means that there are 65 meshes in a
[5] square inch, and that a particle will basically sit on
[6] that, won't quite pass it.
[7] Q: So it would be a pretty small particle?
[8] A: Yes, it would.
[9] Q: So if there were any cracks or openings in the
[10] bottom of that rail car, it could come out, particularly
[11] with the small mesh, right?
[12] A: It could.
[13] Q: Now, you said there were switching operations
[14] or did you not?
[15] A: I said there were switching operations in
[16] town, yes.
[17] Q: Did you observe those?
[18] A: No.
[19] Q: Was any vermiculite ever loaded in town?
[20] A: On rail cars?
[21] Q: Yes.
[22] A: In the time frame that I was there, I don't
[23] recall any.
[24] Q: Was any vermiculite ever unloaded in town off
[25] of rail cars?

Page 118

[1] A: Vermiculite? In my time, again, I don't
[2] recall any.
[3] Q: Was there an expansion facility for
[4] vermiculite in Libby?
[5] A: I have heard that up until about 1969 there
[6] was.
[7] Q: Where was that located, do you know?
[8] A: There in town.
[9] Q: Does it stand to reason that vermiculite
[10] concentrate would be unloaded at an expansion facility?
[11] A: Yes.
[12] Q: And the logical way to get to town, that would
[13] be by rail car, correct? Or it could be by truck?
[14] A: Could be by truck.
[15] Q: Was that a company-owned expansion facility?
[16] A: Every piece of information I have indicates
[17] that it, more than likely, was. I don't have anything
[18] to say that it wasn't.
[19] Q: Sir, were there tunnels or caves somewhere in
[20] the area of Libby where vermiculite or vermiculite
[21] concentrate or expanded vermiculite was stored?
[22] A: I can answer that question, but it is really
[23] broad. And I will say that there existed, at the screen
[24] plant facilities, tunnels underneath our storage
[25] facilities that moved concentrate.

Page 119

[1] MR. GRAHAM: I think the question was in
[2] Libby, wasn't it?
[3] MR. LEWIS: In the Libby area.
[4] A: He said Libby area.
[5] Q: (By Mr. Lewis) I think you understood my
[6] question.
[7] A: Yeah.
[8] Q: Who owns those tunnels now? If you know.
[9] A: I do know, and they are owned right now by
[10] Rain Tree Nursery.
[11] Q: Have they made a complaint to you, in your
[12] capacity, for some kind of compensation?
[13] A: With respect to what?
[14] Q: To their property damage?
[15] A: They have not.
[16] Q: If you know, when did they buy those tunnels
[17] from Grace?
[18] A: They bought the whole property from Grace,
[19] 20-some-odd acres in, I think, 1993.
[20] Q: Were you involved with that transaction?
[21] A: Yes, I was.
[22] Q: Did you tell them that there were hazards
[23] related to asbestos at that facility at the time you
[24] sold to them?
[25] A: No, I did not.

Page 120

[1] Q: Did you or Grace make any disclosure of
[2] asbestos-related hazards in any of the real estate sales
[3] documents?
[4] A: No, we did not.
[5] Q: You said the tunnels are located where?
[6] A: There are three tunnels; two perpendicular to
[7] one. The tunnels are underneath the open storage area
[8] where material — finished concentrate was stored, and
[9] it is perpendicular to a tunnel that feeds the river
[10] loading. The second tunnel is also perpendicular to
[11] that same belt and was underneath the closed silos.
[12] Q: So, if I understand correctly, vermiculite
[13] concentrate could come out the bottom those silos into
[14] the tunnels?
[15] A: That's correct, onto a conveyor belt.
[16] Q: What are the dimensions of those tunnels?
[17] A: I don't know specifically, but they were big
[18] enough for a conveyor belt and for a person to stand up
[19] and walk along.
[20] Q: Were they round tunnels or short, square
[21] tunnels?
[22] A: Short, square.
[23] Q: And what were the lengths of those tunnels?
[24] A: I don't know specifically.
[25] Q: What are the names of the people who bought

Page 121

Page 123

[1] them?
[2] A: It's Rain Tree Nursery.
[3] Q: Do you know the individual?
[4] A: Yes. Mel and Leara Parker.
[5] Q: And they bought 20 acres there?
[6] A: 20-some-odd acres.
[7] Q: What else besides the tunnels are on that
[8] property?
[9] A: A number of structures.
[10] Q: What are the structures?
[11] A: There was what we called our open storage
[12] area. There was what was our old office building.
[13] Q: Down by the river?
[14] A: Down by the river. That was the office to the
[15] screen plant facility.
[16] Q: And that is the place where you would have
[17] loaded all the vermiculite concentrate into the hopper
[18] cars, correct?
[19] A: Across the river would have been.
[20] Q: So how did the ore get across the river?
[21] A: On a conveyor belt.
[22] Q: That went over the river?
[23] A: That's correct.
[24] Q: Are there any photos of that conveyor belt?
[25] A: I'm sure there are. I don't, specifically,

[1] shrinkage in either the loading process or the
[2] transporting process?
[3] A: Every car that went out of there was loaded
[4] with a certain number of tons in it, and was certified
[5] to have those tons put in it. It went from Grace to a
[6] scale someplace which verified and, actually, printed a
[7] loading ticket that said exactly how much was in there,
[8] and that went to the customers.
[9] Q: Okay. So, it would take more than one
[10] document to find out if there was a significant
[11] shrinkage. But what my question was: Grace didn't keep
[12] records of the shrinkage, right?
[13] A: No, not that I'm aware of.
[14] MR. LEWIS: Let's take a break for
[15] lunch.
[16] (Discussion held off the record.)
[17] (Whereupon, the deposition was in recess at
[18] 12:51 p.m., and subsequently reconvened at 1:25 p.m.,
[19] and the following proceedings were had and entered of
[20] record.)
[21] Q: (By Mr. Lewis) Do you know, sir, when
[22] Mr. Wilkins was hired to work for W.R. Grace?
[23] A: You asked me that once before. No, I don't.
[24] Q: He went to work in November of 1966 and
[25] continued to work until February of 1990.

Page 122

Page 124

[1] have any.
[2] Q: Did vermiculite concentrate leak out of that
[3] conveyor?
[4] A: I'm sure there was some that stuck to the belt
[5] that dropped into the river on the return side, yes.
[6] Q: How far across the river is it at that point?
[7] Your best estimate.
[8] A: 150 feet.
[9] Q: Pretty wide at that point; is that correct?
[10] A: It's not narrow.
[11] Q: How far below the dam is it, in terms of
[12] distance?
[13] A: Six, seven miles, maybe ten.
[14] Q: How far above the city of Libby?
[15] A: Five.
[16] Q: Did you folks ever measure what your shrinkage
[17] was in that vermiculite concentrate?
[18] A: What is "shrinkage"?
[19] Q: Well, when you transport a substance and you
[20] lose something in the process of transporting it;
[21] frequently, businesses refer to that as shrinkage. And
[22] that may not be a term of art, but that's what I've
[23] heard. Do you understand what I mean now?
[24] A: Absolutely.
[25] Q: Using that definition, did you document any

[1] A: Okay.
[2] Q: Do you think he should have been given the
[3] information contained in the December 4, 1978 personal
[4] and confidential memo?
[5] A: I'll say the same thing I said before, you
[6] know. What Mr. Wilkins needed to know in the time frame
[7] that I was there and what I knew, was that it was safe
[8] to work there. I don't know what he was told previous
[9] to that.
[10] Q: Well, if management reported in its records
[11] that Grace's record was dismal concerning
[12] asbestos-related disease, do you think they should have
[13] told the employees that?
[14] A: What is your definition of "dismal"?
[15] Q: I don't know.
[16] A: Neither do I, therefore —
[17] Q: Well, it's a Grace document.
[18] A: — I can't comment on what "dismal" is. What
[19] my opinion of dismal, what is your opinion of dismal,
[20] may be two different things.
[21] MR. GRAHAM: And let me just have a
[22] continuing objection in light of the same
[23] objection I made earlier, Tom, and then I won't
[24] interrupt. The idea of what Grace should have
[25] told people at different times is irrelevant,

Page 125

[1] calls for a legal conclusion on this witness's
[2] part, and calls for speculation.
[3] MR. LEWIS: Well, if I understand this
[4] witness's testimony, he doesn't feel that when he
[5] worked at W.R. Grace the men should have been told
[6] anything about management-level documents
[7] concerning the W.R. Grace asbestos disease
[8] problem, right?
[9] A: I don't know that I've ever said that.
[10] Q: (By Mr. Lewis) Well, what is your testimony
[11] on that?
[12] A: What's your question?
[13] Q: I just gave you a question.
[14] A: No, ask me the question.
[15] Q: Okay. Do you believe that while you worked at
[16] W.R. Grace and while you were general manager of the
[17] facility, the men should have been informed as to
[18] management-level communications concerning the
[19] asbestos-related disease problem in Libby?
[20] A: And I don't know that that wasn't done.
[21] Q: Well, should they have been?
[22] A: I don't know that it wasn't done.
[23] Q: Well, you were the general manager then.
[24] A: I was the general manager for the last two
[25] years, and I was mine super before then. I know that

Page 126

[1] our people, both hourly and salary, knew full well what
[2] the risks were at that period of time.
[3] Q: Do you know when they learned of the risk?
[4] A: No.
[5] Q: Do you know that Mr. Lovick said that he never
[6] told the men of the dangers inherent in asbestos
[7] exposure?
[8] A: I'm not aware of that testimony.
[9] Q: Do you know if Mr. Lovick was ever the general
[10] manager there?
[11] A: I recall that, for a short period of time,
[12] that he was the general manager there, yes.
[13] Q: You knew Mr. Bleich, correct?
[14] A: No, I did not.
[15] Q: Did you know what his position was with Grace?
[16] A: There are two different Blakes that I've heard
[17] names to in testimony. One was something to do with the
[18] State of Montana and the other was a Grace employee, but
[19] I don't know which one you're referring to.
[20] Q: I'm not saying Blake; I'm talking about
[21] Bleich, B-L-E-I-C-H. Do you recall that one?
[22] A: Yeah. But I don't know what his specific — I
[23] think that he was a general manager for a period of
[24] time — or a manager. I don't know what period of time
[25] it was.

Page 127

[1] Q: So if I understand correctly, your testimony
[2] is that at least after you came to work there, that mine
[3] and all the Grace operations in Libby were perfectly
[4] safe, correct?
[5] A: What I believe is, in the time frame that I
[6] worked there, that we were operating that facility in a
[7] manner that did not pose any risk to anybody working
[8] there.
[9] Q: And no risk to the public, correct?
[10] A: For sure, no risk to the public.
[11] Q: Okay. And you were disposing of the ore in a
[12] proper and safe manner, the waste ore?
[13] A: That's a contradiction in terms of disposing
[14] of the ore. We concentrated the vermiculite out of the
[15] ore and we sold the concentrate. If you mean by
[16] disposing of the concentrate, then, yes.
[17] Q: Okay, you disposed of the concentrate in a
[18] safe manner?
[19] A: Yes.
[20] Q: And you disposed of the waste material in a
[21] safe manner?
[22] A: Yes.
[23] Q: Now, Mr. Lovick testified that before you came
[24] there they disposed of the waste material in a manner
[25] that would allow it to run down into the Kootenai River.

Page 128

[1] Were you aware of that?
[2] A: I am aware of historical documents and
[3] historical discussions that indicated that prior to the
[4] mining law — or prior to the Mine Reclamation Act in
[5] 1973 that required operations to be permitted, that
[6] Grace did — or excuse me, Zonolite did, in fact, allow
[7] the tailings to run down the raining grate into the
[8] Kootenai River.
[9] Q: Are you sure it wasn't Grace? Grace acquired
[10] the company in, what, 1963?
[11] A: 1963.
[12] Q: The mining act didn't go into effect until —
[13] A: The mining act of 1973 required that it had
[14] to be permitted. That did not mean that there weren't
[15] issues before that, that required the stoppage of
[16] putting material down the stream. I don't know when
[17] that was specifically done.
[18] Q: Okay. And during prior operations of the
[19] facility, there, did they have vermiculite dust go up in
[20] the air?
[21] A: Who is "they"?
[22] Q: Grace. Grace and Zonolite.
[23] A: Again, I'm aware of historical documents and
[24] historical discussions and historical pictures that show
[25] particulate matter coming out of the stacks at the mill,

Page 129

Page 131

[1] yes.

[2] Q: And that particulate matter would have
[3] tremolite asbestos in it?

[4] A: Most assured, it would.

[5] Q: Do you know how far that was dispersed over
[6] the countryside in those operations?

[7] A: No.

[8] Q: Now, you're a mining engineer; how far can
[9] particulate matter be carried in the air?

[10] A: That's a question that is — I mean, there are
[11] too many parameters; what is the velocity of the wind;
[12] what is the size of the particle.

[13] Q: Do you know what the size of the particle was?

[14] A: Where?

[15] Q: That was coming out of the smokestack.

[16] A: No.

[17] Q: Now, tremolite asbestos fibers cannot be seen
[18] by the naked eye, correct?

[19] A: Oh, I think there is — say the question
[20] again.

[21] Q: Tremolite asbestos fibers cannot be seen by
[22] the naked eye; is that correct?

[23] A: No, you can see tremolite. Whether you define
[24] it as a fiber or not is another issue. And what is the
[25] definition of "fiber"? Is it a respirable fiber or is

[1] Bleich to Kelly, it's G-20. Have you ever seen that
[2] document?

[3] A: If I have, it would have only been part of an
[4] exhibit in trial.

[5] Q: So, management-level officials never shared
[6] that document with you?

[7] A: That's correct.

[8] Q: In that letter, referring to G-20.1,
[9] Mr. Lovick's reports, Mr. Bleich says, "In going over
[10] these reports, I can only say that it represents a very
[11] sorry record."

[12] Okay, now, we're talking about, in this
[13] report, you can see, documentation of men becoming ill;
[14] Mr. Glenn Taylor, Eitel Lugwig, numerous — rather than
[15] "numerous," I'll use "a number" — number of abnormal
[16] chest X rays.

[17] A: Okay.

[18] Q: Do you know if the men were ever informed of
[19] this "sorry record" mentioned by Mr. Bleich?

[20] MR. GRAHAM: I'd object to the form of
[21] the question in that it asks this witness to make
[22] assumptions as to the meaning and intent of the
[23] author of the letter — or the communication by
[24] Bleich, and would object on the basis that it
[25] calls for speculation and calls for a legal

Page 130

Page 132

[1] it just a fiber?

[2] Q: Can you see a respirable fiber of tremolite?

[3] A: No.

[4] Q: You can see an accumulation of respirable
[5] fibers; is that correct?

[6] A: You can see an accumulation of tremolite.

[7] Q: Of tremolite. In fibrous form?

[8] A: You can see an accumulation of tremolite, some
[9] of which may be in a fibrous form.

[10] Q: Did you ever see Mr. Lovick's January 2, 1965
[11] report to J.A. Kelly with a copy to R.A. Bleich?

[12] A: If I have, it would have only been through
[13] exhibit in some trial.

[14] Q: It's G-20.1. I just want you to look at that.

[15] A: Okay.

[16] Q: Have you seen that document before, without
[17] reviewing it?

[18] A: No.

[19] Q: That was not provided to you at any time by
[20] Mr. Lovick, Mr. McCaig, or any other management
[21] official?

[22] A: No.

[23] Q: Is that correct?

[24] A: That's correct.

[25] Q: And here's another January 2 letter from

[1] conclusion. Go ahead and answer.

[2] MR. LEWIS: He's already answered no,
[3] right?

[4] A: No, I didn't, but I will. No.

[5] Q: (By Mr. Lewis) So you don't know if they gave
[6] this to the men, but you do know they never gave it to
[7] you, right?

[8] A: That's correct.

[9] Q: Now, that would have been in January 1965,
[10] less than two years before Mr. Wilkins was hired. In
[11] retrospect, do you agree that Mr. Wilkins should have
[12] been given that information?

[13] MR. GRAHAM: I would object, based on
[14] the continuing objection that I've made.

[15] A: I don't know what the responsibilities of
[16] people back then were. I only can tell you what I would
[17] have done in the time frame that I was there.

[18] Q: What would you have done if you had been
[19] management back in 1965 or '66?

[20] A: That's hard for me to say. That's only
[21] speculation of what my mind frame would have been and
[22] what I would have known at that time.

[23] Q: Well, these documents that I just showed you,
[24] and Exhibit No. G-20.2, I'm going to show you that
[25] also —

Page 133

[1] A: Okay.
[2] Q: — that's from Mr. Blackwood. Do you know who
[3] Mr. Blackwood was at the time?
[4] A: It's to Mr. Blackwood.
[5] Q: It's from Mr. Kelly?
[6] A: That's correct.
[7] Q: Who is Mr. Kelly?
[8] A: I have no idea. He was a Grace official but I
[9] don't know what his position was.
[10] Q: In this document, he says, Asbestos has a
[11] known record for harmfulness, in 1960 — this would have
[12] been January 13, 1965.
[13] A: What's your question?
[14] Q: Question is: Don't you really think that the
[15] men should have been informed that there was asbestos
[16] by-products in the mining operations in Libby?
[17] MR. GRAHAM: I would make the same
[18] continuing objection, and it calls for
[19] speculation, it calls for legal conclusion based
[20] on matters that occurred long before this
[21] witness's involvement with that issue; and
[22] incorporate the continuing objection, as well.
[23] A: And I don't know what was known and what was
[24] told or what wasn't told.
[25] Q: (By Mr. Lewis) Well, you got a — Mr. Kelly's

Page 134

[1] a W.R. Grace official in Chicago, right?
[2] A: If you say so.
[3] Q: Well, it says right there on this Zonolite
[4] division record of W.R. Grace.
[5] A: All right.
[6] Q: And he says asbestos in 1965 has a known
[7] record for harmfulness.
[8] A: Okay.
[9] Q: And the earlier reports we just went through,
[10] 20.1 and 20, document "a sorry record" and multiple
[11] health problems of workers. You have no opinion, as you
[12] sit here, as to whether or not the men should have been
[13] told of these problems; is that correct?
[14] A: I don't know what they were told or weren't
[15] told.
[16] MR. GRAHAM: I would make the same
[17] objection, too.
[18] Q: (By Mr. Lewis) Well, Mr. Lovick has said
[19] repeatedly that they were never told.
[20] MR. GRAHAM: I would object to that as a
[21] characterization.
[22] MR. LEWIS: I'll read the record to you,
[23] Counsel.
[24] MR. GRAHAM: I can read parts of the
[25] record to you, Counsel, indicating that he

Page 135

[1] believed that the men knew, which means that the
[2] someone had to tell them.
[3] Additionally, I object to counsel attempting
[4] to make this witness into an expert witness for matters
[5] related to the early '60s, when the witness was not
[6] involved in this kind of activity at all, and didn't
[7] become involved in this kind of mining activity with
[8] asbestos involved in it until 1981, just for the record.
[9] MR. LEWIS: Well, in response to that
[10] statement, the witness volunteered evidence
[11] concerning 1963 to 1981.
[12] MR. GRAHAM: He simply gave a very brief
[13] historical thing. He wasn't tendering himself as
[14] being an expert to that. And to the contrary,
[15] what he said is what he knows is from 1981. He
[16] took a few things that you would anticipate a
[17] manager to know and testified. He hasn't ever
[18] said that he is familiar with all of what happened
[19] during that period of time. In fact, I don't
[20] think he's seen any of the documents that form the
[21] basis for that.
[22] MR. LEWIS: I'll ask you my question.
[23] Q: (By Mr. Lewis) Mr. Stringer, did Mr. Lovick,
[24] then CEO of W.R. Grace, or any other high-Grace
[25] officials provide you any documents relating to the

Page 136

[1] asbestos-related disease problem in Libby prior to 1981
[2] when you were hired?
[3] A: No.
[4] Q: Okay, so they didn't give you access to any of
[5] these documents?
[6] A: No.
[7] Q: The only documents you saw were documents
[8] generated after 1981?
[9] A: That's all I saw, that's correct.
[10] MR. LEWIS: Off the record.
[11] (Discussion held off the record.)
[12] Q: (By Mr. Lewis) Other than on the permitted
[13] property, and the 20-acres that were sold to the
[14] nursery, did W.R. Grace have any other property in the
[15] vicinity of Libby, say, within 20 miles of Libby, where
[16] the vermiculite was stored or processed?
[17] A: Finished product?
[18] Q: Yes. Or anything; any vermiculite-containing
[19] substance that came from the permitted area.
[20] A: Yes.
[21] Q: Where was that?
[22] A: Across the river.
[23] Q: How big of an area was that?
[24] A: I don't know. On that side of the river,
[25] Grace owned probably 50 acres.

Page 137

[1] Q: What was over on that side of the river?
[2] A: That's where we loaded the rail cars.
[3] Q: So you had more storage bins over there?
[4] A: No.
[5] Q: So, would the conveyor, when in operation,
[6] take the vermiculite concentrate directly from the
[7] storage on one side of the river and then convey it
[8] right into the boxcars on the other side of the river?
[9] A: That's correct.
[10] Q: Were there any buildings over on the other
[11] side of the river?
[12] A: Just the office for the person doing the
[13] loading.
[14] Q: So the hopper cars were on the other side of
[15] the river —
[16] A: That's correct.
[17] Q: — from the storage facility?
[18] A: That's correct.
[19] Q: And that's where the warning devices would be
[20] put on, right there?
[21] A: That's correct.
[22] Q: And the one person over there who would load
[23] or the persons who would load, they would put on those
[24] warning devices?
[25] A: That's correct.

Page 138

[1] Q: What color were the warning devices?
[2] A: I don't recall. I think they were white.
[3] Q: What did they say?
[4] A: I don't specifically recall. Generally,
[5] contained asbestos-containing material, less than
[6] 1 percent.
[7] Q: What was the shape of the placards?
[8] A: Rectangular.
[9] Q: Not diamond, but rectangular, right?
[10] A: As far as I recall, yes.
[11] Q: Were you involved in any Libby health
[12] surveillance program at any time you were employed at
[13] Libby after 1981?
[14] A: If you consider the McDonald's study, yes.
[15] Q: And when did that happen?
[16] A: I think in '83.
[17] Q: What was your involvement with that health
[18] surveillance?
[19] A: Nothing.
[20] Q: You just were aware of it, correct?
[21] A: And a participant, I guess, if that's — I
[22] was — I was an employee there, I was aware of the
[23] McDonald's study.
[24] Q: Did millwrights ever work in the mine?
[25] A: Yes.

Page 139

[1] Q: Were you ever aware, while you were employed
[2] as the superintendent of the mine, of a millwright who
[3] became sick with asbestos-related lung disease?
[4] A: None that I know of.
[5] Q: I'm going to show you Exhibit G-66. And I'd
[6] like you to read that to yourself real quick. Take your
[7] time and read it.
[8] MR. LEWIS: I'll be right back.
[9] (Whereupon, Mr. Lewis left the room and
[10] subsequently returned.)
[11] Q: (By Mr. Lewis) Did you have a chance to read
[12] that, sir?
[13] A: Mm-hum.
[14] Q: Have you ever seen that document before today?
[15] A: No, I have not.
[16] Q: Did counsel show you that document?
[17] A: No, he did not.
[18] Q: That document's dated September 20, 1982 from
[19] Eschenbach to Cahalane, C-A-H-A-L-A-N-E, Eschenbach is
[20] E-S-C-H-E-N-B-A-C-H.
[21] Do you see where that document from Eschenbach
[22] indicates that there were already 80 employees who had
[23] lung changes?
[24] A: I see that.
[25] Q: Did you know what Eschenbach's position was

Page 140

[1] with W.R. Grace at the time?
[2] A: At that time, probably not.
[3] Q: Did he have anything to do with health and
[4] toxicology in the company?
[5] A: Do I know that today? Yes. Did I know that
[6] then? I doubt it.
[7] Q: Well, according to earlier correspondence, it
[8] says Gary A. Eschenbach, Director of Health Safety and
[9] Toxicology.
[10] A: Okay.
[11] Q: Is that the same Eschenbach who authored this
[12] Exhibit G-66?
[13] A: Yes.
[14] Q: Did Mr. Eschenbach share that document with
[15] you?
[16] A: No.
[17] Q: Were you employed by the company at the time?
[18] A: Yes.
[19] Q: Did you know that already, about a year after
[20] your employment, there were 80 documented cases of men
[21] with lung changes?
[22] A: No.
[23] Q: Do you know an A.M. Miller?
[24] A: No.
[25] Q: Huh?

Page 141

[1] A: No.
[2] Q: Did you attend safety meetings at W.R. Grace?
[3] A: Yes.
[4] Q: Did you conduct them?
[5] A: Some.
[6] Q: Do you recall conducting any safety meetings
[7] concerning asbestos?
[8] A: No.
[9] Q: Were there other safety issues up there at
[10] Grace's Libby facility?
[11] A: Certainly.
[12] Q: What were some of the other kinds of safety
[13] issues?
[14] A: Blowing yourself up with explosives. Driving
[15] trucks in a safe manner. Operating heavy equipment in
[16] the manner it's supposed to be. All of the issues that
[17] are relevant to working safely in an industrial
[18] environment.
[19] Q: Did you have people getting blown up?
[20] A: No.
[21] Q: Were those issues ever discussed in safety
[22] meetings that you —
[23] A: Excuse me?
[24] Q: Were those issue you just mentioned discussed
[25] in safety meetings?

Page 142

[1] A: I'm sure they were.
[2] Q: That is, truck driving safety, explosive
[3] safety, those things were covered?
[4] A: All of those things were covered at one time
[5] or another in safety meetings.
[6] Q: Do you know Mike Noble?
[7] A: Yes.
[8] Q: Do you know Dorothy Noble?
[9] A: Yes.
[10] Q: Do you know Pat Geer?
[11] A: Yes.
[12] Q: Do you know Sandy Wagner?
[13] A: The name is familiar.
[14] Q: Has she ever talked to you about
[15] asbestos-related problems?
[16] A: Not that I'm aware of.
[17] Q: Did you know Jimmy Midgy?
[18] A: No.
[19] Q: Did any of those people I just mentioned ever
[20] come to you and talk to you about asbestos-related
[21] disease problems since you became the contact person for
[22] W.R. Grace in Libby, beginning in the middle of
[23] November, 1999?
[24] A: No.
[25] Q: Now, you've said, from your perspective, to be

Page 143

[1] fair to you, you said you don't believe there is any
[2] health issue now in the community of Libby resulting
[3] from Grace's operations on Vermiculite Mountain; is that
[4] true?
[5] A: To the general population, yes.
[6] Q: You've attended hearings where people have
[7] spoken and contended that they never worked on the
[8] mountain but they had contracted asbestos-related
[9] disease, correct?
[10] A: I've heard that.
[11] Q: Do you contend that what they're saying is not
[12] truthful?
[13] A: You would have to qualify, as to what is their
[14] relationship to either a previous employee or a
[15] family — any other family member that worked there.
[16] Q: Are you well aware of facts, of situations,
[17] where spouses and children of W.R. Grace employees have
[18] contracted asbestos-related diseases?
[19] A: Yes, I am.
[20] Q: Are there other cases where people who did not
[21] work for W.R. Grace and did not have family members who
[22] worked for W.R. Grace contracted asbestos-related
[23] disease by coming into contact with vermiculite in
[24] nonoccupational settings?
[25] A: I'm not aware of any.

Page 144

[1] Q: Have you ever talked to Dr. Alan Whitehouse
[2] about these —
[3] A: No, I have not.
[4] Q: Let me finish my question.
[5] Have you ever talked to Dr. Alan Whitehouse
[6] about the asbestos-related disease problem in Libby?
[7] A: No, I have not.
[8] Q: Have you talked to any other doctors about
[9] that?
[10] A: Yes, I have.
[11] Q: What are their names?
[12] A: Dr. Black.
[13] Q: Where is he?
[14] A: He is a physician in Libby.
[15] Q: What was the occasion that resulted in your
[16] discussing this issue with Dr. Black?
[17] A: Dr. Black is the county health officer, and I
[18] have known Dr. Black for nearly 20 years. And at public
[19] meetings, we have had discussions about these issues.
[20] And discussions with the hospital, relative to Grace's
[21] making monies available for them, Dr. Black has been a
[22] part of those discussions.
[23] Q: Is Dr. Black a representative of the hospital?
[24] A: Not that I know of.
[25] Q: So your discussions with Dr. Black have been

Page 145

Page 147

[1] fairly recent, since you came back to Libby in November?
[2] A: I've known Dr. Black for 20 years. Dr. Black
[3] was my physician, Dr. Black was my children's physician.
[4] Q: My question — we're talking about discussions
[5] relating to the asbestos problem. Do you have
[6] asbestos-related disease?
[7] A: Not that I'm aware of.
[8] Q: Have you been examined?
[9] A: I had a lung function test and X ray every
[10] year while I worked on the hill.
[11] Q: When was the last time you had that done?
[12] A: 1994.
[13] Q: Have your children been examined for
[14] asbestos-related disease?
[15] A: No, they have not.
[16] Q: Your spouse?
[17] A: No.
[18] Q: Did Dr. Black ever treat you or your family
[19] for any lung problem?
[20] A: No.
[21] Q: Now, what I'm talking about is discussions
[22] with Dr. Black concerning the asbestos-related disease
[23] problem. And I appreciate your candor in telling me
[24] that he has also been your personal physician. No
[25] problem there.

[1] behalf of the hospital?
[2] A: I'm sure there are the CEO, the financial
[3] person, the board of directors, other medical staff, as
[4] well as other doctors within the — that have privileges
[5] at the hospital.
[6] Q: Have you received the results of any EPA
[7] testing yet?
[8] A: Yes.
[9] Q: Where would I find those results? Do you have
[10] those?
[11] A: No, I do not. Go to the EPA.
[12] Q: Has W.R. Grace tested any buildings for
[13] vermiculite insulation contamination?
[14] A: A rather broad — where?
[15] Q: In Libby. In Libby. All these questions are
[16] about Libby.
[17] A: Recently?
[18] Q: I'll do it again. At any time, has W.R. Grace
[19] tested any buildings in the vicinity of Libby for
[20] asbestos contamination associated with vermiculite?
[21] A: I'm not aware of any.
[22] Q: None of that's been done since you've been
[23] there?
[24] A: The EPA has done that, yes.
[25] Q: And the results are with EPA, or have they

Page 146

Page 148

[1] But, since the middle of November, have you
[2] had talks with Dr. Black about setting up this program
[3] at the hospital to check out the asbestos issues?
[4] A: Dr. Black has been a part of conversations
[5] that I have had relative to setting up the screening and
[6] the testing and the ongoing health care needs of the
[7] people of Libby.
[8] Q: What was the substance of those discussions,
[9] generally?
[10] A: As to how the monies would be provided, as to
[11] how the hospital would use them. Just basic general
[12] questions of where the money was to go, what it was
[13] going to be used for, how long it was going to be used,
[14] how long it was going to be provided.
[15] Q: Has a budget been established, yet, for the
[16] medical monitoring program?
[17] A: No. Grace has not done any part of that, and
[18] Grace is not going to be a part of any of that. That's
[19] what the hospital will have to do.
[20] Q: Who will provide the funds?
[21] A: Grace will provide the funds.
[22] Q: Based upon the hospital's recommendations?
[23] A: Yes.
[24] Q: Who else, besides Dr. Black, is involved in
[25] that? Who else, besides Dr. Black, is involved on

[1] completed their testing?
[2] A: The EPA has completed their testing on the air
[3] monitoring; they're awaiting the results on the soil
[4] monitoring.
[5] Q: Do you know of any other source of asbestos in
[6] the Libby area?
[7] A: Certainly.
[8] Q: What would that be?
[9] A: Probably the local hardware store. Asbestos
[10] is still sold commercially on the market and it's
[11] contained in numerous products in which people can buy.
[12] Q: Well, give me some specifics. What do you
[13] mean by that?
[14] A: As an example, one of the houses that was
[15] tested for air quality came back with asbestos fiber of
[16] a link that is considered to be an issue; that was
[17] chrysotile.
[18] Q: Chrysotile?
[19] A: Chrysotile.
[20] Q: I heard about that.
[21] A: Which didn't come from the mine. So it had to
[22] have come from something else, some other form of
[23] asbestos.
[24] I've read articles in the newspapers where the
[25] EPA has taken the position that numerous products are

Page 149

[1] still sold within the United States that contain
[2] asbestos. They say that; I accept that. And that's my
[3] comment to you.
[4] Q: Well, I asked you the question, I'm not afraid
[5] of the answer. So —
[6] A: I mean, if I —
[7] Q: I'm not pressuring you on this. I just asked
[8] what you now about that.
[9] A: That's what I know.
[10] Q: Does W.R. Grace have any mines where
[11] chrysotile form of asbestos contaminates Grace products?
[12] A: I'm not aware of any.
[13] Q: Any other vermiculite mines ever operated by
[14] Grace in North America?
[15] A: Yes.
[16] Q: Where at?
[17] A: South Carolina.
[18] Q: Any asbestos contamination there?
[19] A: Is there tremolite in the ore body? Yes.
[20] Q: Is there any other form of asbestos in the ore
[21] body?
[22] A: Not that I know of.
[23] Q: Where did Grace get its chrysotile asbestos
[24] that it gave to its licensees for expanding vermiculite?
[25] A: I know that asbestos was provided for part of

Page 150

[1] our products; where Grace got it from, I don't know.
[2] Q: That was a chrysotile form of asbestos, wasn't
[3] it?
[4] A: I assume it was. I don't know for sure.
[5] Q: In fact, the expansion plants added pure
[6] asbestos to the vermiculite during the expansion
[7] process; is that correct?
[8] A: I don't mean to get nit-picky and split hairs,
[9] but in general, yes.
[10] Q: Well, you can go ahead and expand.
[11] A: It didn't get added during the expansion
[12] process, it got added in the manufacturing process.
[13] Q: Explain that to me. You're absolutely right
[14] about that, I misspoke. Thank you. Explain that in
[15] greater detail for the record.
[16] A: The vermiculite goes through a furnace and is
[17] exfoliated or expanded. The expanded product then would
[18] have been mixed with numerous other raw materials,
[19] including, I assume, a chrysotile form of asbestos for
[20] the finished product that they were making.
[21] Q: And the finished product was insulation?
[22] A: I don't know what, specifically, it was. But
[23] from what I understand, it was a form of insulation.
[24] Q: And then with licensees, Grace absolutely
[25] specified the formula that was to be used to manufacture

Page 151

[1] the final product, right?
[2] A: You're telling me something I'm not aware of.
[3] Q: When you were shipping vermiculite concentrate
[4] from Libby, as the general manager from 1988 up until
[5] the time the mine closed in '90, were you sending it to
[6] expansion plants all over the United States?
[7] A: No.
[8] Q: Where were you sending yours?
[9] A: Mainly to the Western United States.
[10] Q: Where would those be located, generally?
[11] A: How about specifically?
[12] Q: You know them all?
[13] A: I think so.
[14] Q: Okay, give them to me.
[15] A: Portland, Oregon. Newark, California. Santa
[16] Ana, California. And Phoenix, Arizona.
[17] Q: After the expansion plants expanded the
[18] vermiculite and mixed it, what would happen to it then?
[19] Would it be sold in bulk or would it be sold in sacks or
[20] how would it be sold?
[21] A: The answer is yes.
[22] Q: To all of the above?
[23] A: Yes.
[24] Q: So, how would it be transferred in bulk; how
[25] would it be transported?

Page 152

[1] A: It would be transferred into bulk trucks.
[2] Q: And then shipped where?
[3] A: Wherever that customer took it to.
[4] Q: What kind of entities would purchase it in
[5] bulk?
[6] A: I don't know. I mean, I just — you know, I
[7] know of a customer who bought from our Phoenix facility
[8] that took it in bulk, but what his use of it was, I
[9] don't know.
[10] Q: What were some of the uses that you know of?
[11] A: It was used in horticulture. It was used in
[12] agricultural. It was used in masonry fill. And it was
[13] used in fire protection.
[14] Q: So, used in gardens?
[15] A: That's the horticulture. Excuse me, the
[16] agricultural part.
[17] Q: Now, how would it be used when it was put in a
[18] sack; same purpose on a lesser scale?
[19] A: I don't —
[20] Q: Was it ever put in sacks and sold that way?
[21] A: What size of sack?
[22] Q: Well, small sacks (demonstrating.)
[23] A: That, to me, is not a small sack.
[24] Q: How about 50-pound sacks?
[25] A: No, they were cubic foot sacks, and they would

Page 153

[1] less than 20 pounds.
[2] Q: What would those be used for?
[3] A: Multiple. Agricultural.
[4] Q: Did they have W.R. Grace on the sack?
[5] A: Probably.
[6] Q: Zonolite on the sack?
[7] A: Probably.
[8] Q: Would the sacks say what the uses of this
[9] product is?
[10] A: I don't know.
[11] Q: Well, vermiculite is sometimes used in potting
[12] plants, correct?
[13] A: Yes. That's the agricultural setting.
[14] Q: Agricultural/horticulture, right?
[15] A: Yes.
[16] Q: Did it say on the sack that it was good or
[17] insulation?
[18] A: I have no idea.
[19] Q: Could you buy sacks of Zonolite at the
[20] hardware store in Libby when you were operating?
[21] A: I never saw a sack of it.
[22] Q: Never saw it in Libby?
[23] A: Never.
[24] Q: None of it was sold locally?
[25] A: I don't know if it was or not; I never saw a

Page 154

[1] sack of it.
[2] Q: Now, I've heard people say that they would go
[3] up and buy it directly from the company, in bulk. Do
[4] you recall if that ever happened when you were there?
[5] A: Not in the time I was there.
[6] How long are we going to go? I need to use
[7] the restroom.
[8] MR. LEWIS: Go ahead and use the
[9] restroom.
[10] (Whereupon, the deposition was in recess at
[11] 2:16 p.m., and subsequently reconvened at 2:18 p.m.,
[12] and the following proceedings were had and entered of
[13] record:)
[14] Q: (By Mr. Lewis) So, you don't recall seeing
[15] anybody from the Libby area purchase or obtain expanded
[16] vermiculite from the company while you were there,
[17] right?
[18] A: No, that's not true. I know of people who
[19] were able to acquire expanded vermiculite from our
[20] testing facility. As we tested our concentrate, it was
[21] saved and people who wanted it could ask for it and
[22] would get it.
[23] Q: Do you know where Bob Wilkins worked near the
[24] end of his career with Grace?
[25] A: At the river loading.

Page 155

[1] Q: Across the river?
[2] A: Yes.
[3] Q: Did he ever work downtown?
[4] A: I don't know.
[5] Q: Did you tell the men, while you were there,
[6] that it was perfectly safe to work around that facility?
[7] A: I believed then, and I believe now, that it
[8] was safe to work in that facility.
[9] Q: Is that what you told the men?
[10] A: I'm sure I told the men.
[11] Q: That it was perfectly safe?
[12] A: That that was my belief at that time, yes.
[13] Q: And that they had nothing to worry about with
[14] the asbestos, correct?
[15] A: What I told them, and what they were told, was
[16] that their working there did not put them at any risk
[17] with respect to asbestos.
[18] Q: And they had a right to rely upon that,
[19] correct?
[20] A: Absolutely, as well as I did, as well as my
[21] daughter did.
[22] Q: Your daughter worked there?
[23] A: Yes, she did.
[24] Q: Where did she work?
[25] A: She worked in the mill and the mine.

Page 156

[1] Q: When did she work there?
[2] A: The summers of '86 and '87.
[3] Q: While she was going to college?
[4] A: Yes.
[5] Q: What did she do there?
[6] A: Drove trucks, worked in the wet mill, whatever
[7] was needed, fill in for vacations.
[8] Q: So, if Mr. Wilkins testified under oath that
[9] you folks told him that it was perfectly safe to work
[10] there and he had nothing to worry about concerning
[11] asbestos, that smacks of the truth?
[12] A: In the same time frame that I worked there, I
[13] believed, and I still believe, that the workers in that
[14] operation using the necessary precautions and using the
[15] necessary protection were fully safe.
[16] Q: What were the precautions that Mr. Wilkins was
[17] to use while he was loading across the river?
[18] A: Make sure that the dust collector was on when
[19] he was loading.
[20] Q: What dust collector?
[21] A: There were dust collectors associated with the
[22] transfer of the vermiculite.
[23] Q: As long as he did that, he was perfectly safe?
[24] A: That was our believe. That is my belief.
[25] That was my belief.

Page 157

[1] Q: I'm going to ask you the question again. If
[2] he said that he was told by management that it was
[3] perfectly safe to work there and he had nothing to worry
[4] about concerning asbestos-related disease, that would be
[5] truthful testimony, as far as you can determine, while
[6] you were there?

[7] A: If I was to have had the opportunity to tell
[8] Mr. Wilkins during the time frame that I was here, that
[9] would be accurate.

[10] Q: But as you sit here now, you can't really
[11] recall ever discussing the subject with Mr. Wilkins —

[12] A: No, I cannot.

[13] Q: — while you worked there?

[14] MR. LEWIS: I'll reserve the rest of my
[15] questions until the time of trial.

[16] MR. GRAHAM: No questions.

[17] (Deposition concluded at 2:23 p.m.)

[18] Witness excused; signature reserved.)

[19]

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Page 158

[1] CERTIFICATE OF WITNESS
[2] (Deposition of ALAN STRINGER)
[3] PAGE LINE CORRECTION

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[25]

Dated on this day of , 2000.

Alan Stringer

Sworn and subscribed to before me on
this day of , 2000.

NOTARY PUBLIC FOR THE STATE OF MONTANA
Residing in , Montana
My commission expires:

Page 159

[1] CERTIFICATE

[2] STATE OF MONTANA)
) ss.

[3] County of Missoula)

[4]

[5] I, Stephanie A. Ahrens, CSR, Freelance Court
Reporter and Notary Public for the State of Montana,
[6] residing in Missoula, Montana, do hereby certify:

[7] That I was duly authorized to and did report
the deposition of ALAN STRINGER in the above-entitled
[8] cause;

[9] That the reading and signing of the
deposition by the witness have been expressly

[10] reserved;

[11] That the foregoing pages of this deposition
transcript constitute a true and accurate

[12] transcription of my stenotype notes of the testimony
of said witness.

[13]

I further certify that I am not an attorney
[14] nor counsel of any of the parties; nor a relative or
employee of any attorney or counsel connected with the
[15] action, nor financially interested in the action.

[16] IN WITNESS WHEREOF, I have hereunto set my
hand and seal on this the 8TH day of March, 2000.

[17]

[18]

[19]

[20]

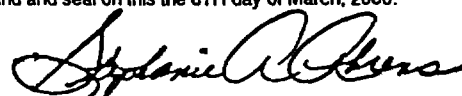
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Stephanie A. Ahrens, CSR

Freelance Court Reporter

Notary Public, State of Montana

Residing in Missoula, Montana

My commission expires: 1/26/02

Taken → February 29, 2000

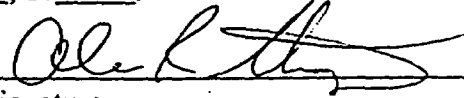
As you read your transcript, if you have any corrections to make, please itemize them below and, upon completing, sign your name to the signature line before a notary public. This will be attached to your original transcript.

Thank you.

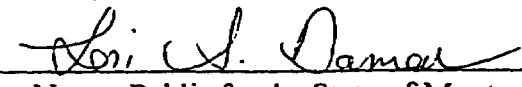
CERTIFICATE OF WITNESS

PAGE	LINE	EXPLANATION
55	12	human resources to find out these positions replace with Organization
97	4	Plant engineer
116	21	OUR NO 4
116	22	100 Percent to 65 mesh , plus 65 mesh
128	7	raining grate should be Raining Creek
135	24	the CEO of W.R. Grace
140	8	SAYS <u>Harry</u> A. Eschenbach

I hereby certify that this is a true and correct copy of my testimony, together with any changes I have made on this and any subsequent pages attached hereto.

Dated this 16 day of MARCH, 2000.

Signature
SUBSCRIBED AND SWORN to before me this 16th day of March, 2000

(Notarial Seal)


Notary Public for the State of Montana
Residing at Troy
My Commission Expires: 7-3-2002

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